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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2012 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through March 30, 2012. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through March 30, 2012.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Sixth Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2012 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2012 supplement pamphlets and in the bound volumes of the Code.

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TITLE 43

PROFESSIONS AND BUSINESSES

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CHAPTER 1

GENERAL PROVISIONS

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43-1-2. Appointment and general powers of division director; members and meetings of professional licensing boards; examination standards; roster of licensees; funding.

(a)(1) There is created within the office of the Secretary of State the professional licensing boards division as successor to the office of the joint-secretary of the state examining boards. The Secretary of State is authorized and directed to appoint a director of the professional licensing boards division.

(2) Any action of the joint-secretary taken with regard to any state examining board prior to July 1, 2000, shall thereafter be deemed to be action taken by the director of the professional licensing boards division and that division director shall thereafter act in the stead of such joint-secretary and succeed to the powers and duties of the joint-secretary with regard to those state examining boards. The rights, privileges, entitlements, or duties of parties to contracts, leases, agreements, or other transactions entered into by the joint-secretary prior to July 1, 2000, shall continue to exist and shall not be impaired or diminished by reason of the succession of the division director to the powers and duties of the joint-secretary.

(b) The salary of the division director shall be fixed by the Secretary of State, and he or she shall hold office at the pleasure of the Secretary of State.

(c) The Secretary of State, notwithstanding any other provisions of law to the contrary, shall employ personnel as deemed necessary to carry out this chapter and to provide for all services required by each of the professional licensing boards and shall establish within the guidelines provided by the laws and rules and regulations of the State Personnel Board the qualifications of such personnel.

(d) The division director, with the approval of the Secretary of State, notwithstanding any other provisions of law to the contrary, shall enter into such contracts as are deemed necessary to carry out this chapter to provide for all services required by each of the professional licensing boards.

(e) The Secretary of State, notwithstanding any other provisions of law to the contrary, shall have the power to employ and shall set the qualifications and salary for a deputy division director and shall appoint executive directors as required who shall act in the absence of the division director and who shall perform such other functions of the division director under this chapter as the division director may designate. The deputy division director and executive directors as appointed shall be in the unclassified service and shall be excluded from the classified service as defined in Article 1 of Chapter 20 of Title 45.

(f) Notwithstanding any other provisions of law to the contrary, each member of the various professional licensing boards may receive the expense allowance as provided by subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier within the state. Any board member shall also be reimbursed for any conference or meeting registration fee incurred in the performance of his or her duties as a board member. For each day's service outside of the state as a board member, such member shall receive actual expenses as an expense allowance as well as the same mileage allowance for the use of a personal car as that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier or by rental motor vehicle. Expense vouchers submitted by members of the various professional licensing boards are subject to approval of the president or chairperson of the respective board and the division director.

(g) All meetings and hearings of the respective professional licensing boards shall be held in the capitol, at the site of the office of the respective board, or at such other site as may be requested by the chairperson or president of a professional licensing board and approved by the division director.

(h) A majority of the appointed members of a professional licensing board shall constitute a quorum for the transaction of business by that board.

(h.1) Members of a professional licensing board shall serve until the expiration of the term for which they were appointed and until their successors have been appointed and qualified unless otherwise specified under the provisions of this title.

(i) A schedule of all meetings and hearings of the various professional licensing boards shall be maintained at the office of the division director and be available for public review.

(j) The division director may establish administrative standards for the examination of applicants for licensure by the various professional licensing boards, notwithstanding any other provisions of law to the contrary. These administrative standards may include the setting of date, time, and location of examinations, subject to the approval of the respective professional licensing boards. Notwithstanding any other provisions of law to the contrary, examination criteria, examination grading procedures, examination fees, examination passing score requirements, and other matters pertaining to the examination of applicants for licensure may be adopted by rules of the respective professional licensing boards as necessary to implement such examination

standards. Examination standards, including examination criteria, grading procedures, and passing score requirements, developed in agreement or in conjunction with a national association of state boards or other related national association for the administration of a nationally recognized uniform examination may be adopted in lieu of state standards by the respective professional licensing boards.

(k) The division director shall prepare and maintain a roster containing the names and addresses of all current licensees for each of the various professional licensing boards. A copy of this roster shall be available to any person upon request at a fee prescribed by the division director sufficient to cover the cost of printing and distribution. The following shall be treated as confidential and need not be disclosed without the approval of the professional licensing board to which application is made:

(1) Applications and other personal information submitted by applicants, except to the applicant, staff, and the board;

(2) Information, favorable or unfavorable, submitted by a reference source concerning an applicant, except to the staff and the board;

(3) Examination questions and other examination materials, except to the staff and the board; and

(4) The deliberations of the board with respect to an application, an examination, a complaint, an investigation, or a disciplinary proceeding, except as may be contained in official board minutes.

(l) Funding for the office of the division director and the various professional licensing boards served by such office shall be contained in a common budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act." (Ga. L. 1931, p. 7, §§ 89, 89A; Code 1933, §§ 84-101, 84-102; Ga. L. 1943, p. 370, § 1; Ga. L. 1955, p. 323, § 1; Ga. L. 1975, p. 412, § 1; Ga. L. 1977, p. 758, § 1; Ga. L. 1981, p. 1898, § 1; Ga. L. 1990, p. 1965, § 1; Ga. L. 2000, p. 1706, § 2; Ga. L. 2009, p. 745, § 1/SB 97; Ga. L. 2010, p. 266, §§ 6, 7/SB 195; Ga. L. 2012, p. 446, § 2-64/HB 642.)

The 2012 amendment, effective July 1, 2012, substituted "State Personnel Board" for "State Personnel Administration" in subsection (c).

Editor's notes. — Ga. L. 2012, p. 446, § 3-1/HB 642, not codified by the General Assembly, provides that: "Personnel, equipment, and facilities that were assigned to the State Personnel Administration as of June 30, 2012, shall be trans-

ferred to the Department of Administrative Services on the effective date of this Act." This Act became effective July 1, 2012.

Ga. L. 2012, p. 446, § 3-2/HB 642, not codified by the General Assembly, provides that: "Appropriations for functions which are transferred by this Act may be transferred as provided in Code Section 45-12-90."

43-1-5. Investigators for professional licensing boards.

Law reviews. — For article, “Crimes and Offenses,” see 27 Ga. St. U. L. Rev. 131 (2011).

43-1-32. Limitations on licensure requirements for physicians and dentists; conditioning of licensing upon participation in public or private health insurance plans prohibited.

(a) State licensure requirements for physicians and dentists in this state shall be granted based on demonstrated skill and academic competence. Licensure approval for physicians and dentists in this state shall not be conditioned upon or related to participation in any public or private health insurance plan, public health care system, public service initiative, or emergency room coverage.

(b) The Georgia Composite Medical Board and the Georgia Board of Dentistry shall be solely responsible for the licensure of physicians and dentists, respectively, in this state. (Code 1981, § 43-1-32, enacted by Ga. L. 2012, p. 348, § 1/HB 785.)

Effective date. — This Code section became effective July 1, 2012.

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2012, Code

Section 33-1-22, as enacted by Ga. L. 2012, p. 348, § 1, was redesignated as Code Section 43-1-32.

CHAPTER 3**ACCOUNTANTS****43-3-24. (Effective January 1, 2013. See note.) Issuance of permits to practice accountancy; substantial equivalency practice privilege for nonresidents.**

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). For article on the 2011 amendment of this

Code section, see 28 Ga. St. U. L. Rev. 1 (2011).

CHAPTER 6

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43-6-6. (Effective January 1, 2013. See note.) Seal.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
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CHAPTER 7

BARBERS

43-7-9. General powers and duties of board.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

CHAPTER 9

CHIROPRACTORS

43-9-12. (Effective January 1, 2013. See note.) Refusal, suspension, or revocation of licenses; subpoenas; other discipline; judicial review; reinstatement; voluntary surrender of license; injunctions; statement of complaint.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
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CHAPTER 10

COSMETOLOGISTS

43-10-6. Rules and regulations as to sanitary requirements; instruction on HIV and AIDS; inspections; unsanitary condition as nuisance.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

CHAPTER 10A

PROFESSIONAL COUNSELORS, SOCIAL WORKERS, AND MARRIAGE AND FAMILY THERAPISTS

Sec.	social work; authorized services.
43-10A-3. Definitions.	
43-10A-12. Requirements for licensure in	

43-10A-3. Definitions.

As used in this chapter, the term:

(1) “Advertise” means, but is not limited to, the issuing of or causing to be distributed any card, sign, or other device or the causing or permitting any sign or marking on or in any building or structure, or in any newspaper, magazine, or directory, or on radio or television.

(2) “Allied profession” means the practice of medicine, psychiatric nursing, psychology, or pastoral counseling.

(3) “Board” means the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists established by this chapter.

(3.1) “Commission on Rehabilitation Counselor Certification” means the national certifying agency for rehabilitation counselors as recognized by the National Commission for Certifying Agencies.

(4) “Counseling” means those techniques used to help persons learn how to solve problems and make decisions related to personal growth, vocation, family, social, and other interpersonal concerns.

(5) “Direction” means the ongoing administrative overseeing by an employer or superior of a specialty practitioner’s work. The person providing direction shall be responsible for assuring the quality of the

services rendered by that practitioner and shall ensure that qualified supervision or intervention occurs in situations which require expertise beyond that of the practitioner. Direction may be provided by any person acceptable to the standards committee for that specialty in which the practitioner is working.

(6) "Division director" means the director of the professional licensing boards division. The division director shall serve as secretary to the board.

(7) "Fee" means money or anything of value, including but not limited to a salary, offered or received as compensation in return for rendering services in any specialty.

(8) "Marriage and family therapy" means that specialty which evaluates and treats emotional and mental problems and conditions, whether cognitive, affective, or behavioral, resolves intrapersonal and interpersonal conflicts, and changes perception, attitudes, and behavior; all within the context of marital and family systems. Marriage and family therapy includes, without being limited to, individual, group, couple, sexual, family, and divorce therapy. Marriage and family therapy involves an applied understanding of the dynamics of marital and family systems, including individual psychodynamics, the use of assessment instruments that evaluate marital and family functioning, designing and recommending a course of treatment, and the use of psychotherapy and counseling.

(9) "Practice a specialty" or "practice" means to offer to render for a fee or to render for a fee any service involving the application of principles, methods, or procedures of professional counseling, social work, or marriage and family therapy.

(10) "Professional counseling" means that specialty which utilizes counseling techniques based on principles, methods, and procedures of counseling that assist people in identifying and resolving personal, social, vocational, intrapersonal and interpersonal concerns; utilizes counseling and psychotherapy to evaluate, treat, and recommend a course of treatment for emotional and mental problems and conditions, whether cognitive, behavioral, or affective, provided that the counselor shall have training and experience working with people with mental illness, mental retardation, or substance abuse; administers and interprets educational and vocational assessment instruments and other tests which the professional counselor is qualified to employ by virtue of education, training, and experience; utilizes information, community resources, and goal setting for personal, social, or vocational development; utilizes individual and group techniques for facilitating problem solving, decision making, and behavior change; utilizes functional assessment and vocational plan-

ning and guidance for persons requesting assistance in adjustment to a disability or disabling condition; utilizes referral for persons who request counseling services; performs service planning; and utilizes and interprets counseling research.

(11) "Psychotherapeutic techniques" means those specific techniques involving the in-depth exploration and treatment of interpersonal and intrapersonal dynamics but shall not include the performance of those activities exclusively reserved to any other business or profession by any other chapter of this title.

(12) "Recognized educational institution" means any educational institution which grants a bachelor's, master's, specialist, or doctoral degree and which is recognized by an accrediting body acceptable to the board.

(13) "Social work" means that specialty which helps individuals, marriages, families, couples, groups, or communities to enhance or restore their capacity for functioning: by assisting in the obtaining or improving of tangible social and health services; by providing psychosocial evaluations, in-depth analyses and diagnoses of the nature and status of emotional, cognitive, mental, behavioral, and interpersonal problems or conditions; and by counseling and psychotherapeutic techniques, casework, social work advocacy, psychotherapy, and treatment in a variety of settings which include but are not limited to mental and physical health facilities, child and family service agencies, or private practice.

(14) "Specialty" means social work, marriage and family therapy, or professional counseling, or any combination thereof.

(15) "Supervision" means the direct clinical review, for the purpose of training or teaching, by a supervisor of a specialty practitioner's interaction with a client. It may include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation in order to promote the development of the practitioner's clinical skills.

(16) "Supervisor" means a person who meets the requirements established by the standards committee for that specialty which is being supervised and who is either licensed under this chapter or is a psychiatrist or a psychologist.

(17) "The Commission on Accreditation for Marriage and Family Therapy Education" means the national accrediting agency for marriage and family therapy education as recognized by the United States Department of Education.

(18) "The Council on Social Work Education" means the national accrediting agency for social work education as recognized by the

United States Department of Education and the Council on Postsecondary Accreditation. (Code 1981, § 43-7A-3, enacted by Ga. L. 1984, p. 1406, § 1; Ga. L. 1987, p. 3, § 43; Ga. L. 1990, p. 1484, § 1; Ga. L. 1993, p. 330, § 2; Ga. L. 1994, p. 450, § 1; Ga. L. 1995, p. 1302, § 17; Ga. L. 1997, p. 452, § 1; Ga. L. 2000, p. 1706, § 9; Ga. L. 2002, p. 1479, § 1; Ga. L. 2012, p. 347, § 1/HB 434.)

The 2012 amendment, effective July 1, 2012, substituted “diagnoses” for “determinations” near the middle of paragraph (13).

43-10A-7. Licensing requirement; exceptions.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

43-10A-12. Requirements for licensure in social work; authorized services.

(a) The education, experience, and training requirements for licensure in social work are as follows:

(1) For licensure as a master’s social worker, a master’s degree in social work from a program accredited by the Council on Social Work Education; and

(2) For licensure as a clinical social worker:

(A) A master’s degree in social work from a program accredited by the Council on Social Work Education; and

(B) As defined by the board, three years’ full-time supervised experience in the practice of social work following granting of the master’s degree. Of the three years of supervised experience, only the first two must be under direction. A doctoral degree in a specialty, an allied profession, or child and family development may substitute for one year of such experience. At least one year of experience shall have occurred within two years immediately preceding application for licensure as a clinical social worker or the applicant shall have met the continuing education requirement established by the board for clinical social work during the year immediately preceding application.

(b) Licensed master’s social workers may render or offer to render to individuals, marriages, couples, families, groups, organizations, governmental units, or the general public service which is guided by knowledge of social resources, social systems, and human behavior. They may provide evaluation, prevention, and intervention services which include but are not restricted to community organization, counseling, and supportive services such as administration, direction, su-

pervision of bachelor’s level social workers, consultation, research, or education. The first two years of their practice after licensure as a master’s social worker shall be under direction and supervision. Thereafter, they may engage in private practice, except that those social workers whose practice includes counseling or psychotherapeutic techniques may only engage in such practice under the supervision of a duly qualified supervisor and only for such period of time as is prescribed for qualification to take the clinical social work licensing examination.

(c) Licensed clinical social workers may practice all authorized services of licensed master’s social workers and may: provide supervision and direction; provide psychosocial evaluation through data collection and analyses to diagnose the nature of an individual’s mental, cognitive, emotional, behavioral, and interpersonal problems or conditions; provide counseling and psychotherapy to individuals, marriages, couples, families, and groups; interpret the psychosocial dynamics of a situation and recommend and implement a course of action to individuals, marriages, couples, families, or groups in such settings as private practice, family service and counseling agencies, health care facilities, and schools; and provide direct evaluation, casework, social work advocacy, education, training, prevention, and intervention services in situations threatened or affected by social, intrapersonal, or interpersonal stress or health impairment. (Code 1981, § 43-7A-12, enacted by Ga. L. 1984, p. 1406, § 1; Ga. L. 1987, p. 467, § 1; Ga. L. 1990, p. 1484, §§ 4, 5; Ga. L. 1993, p. 330, § 5; Ga. L. 2012, p. 347, § 2/HB 434.)

The 2012 amendment, effective July 1, 2012, substituted “diagnose” for “determine” near the middle of subsection (c).

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CHAPTER 11		
DENTISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS		
Article 1		
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Sec.	43-11-52.	Volunteers in dentistry and dental hygiene; special licensing; construction.
43-11-21.1. General anesthesia.		
Article 2		
Licenses for the Practice of Dentistry		
43-11-40. Qualification of applicants; criminal background check.		

ARTICLE 1

GENERAL PROVISIONS

43-11-12. (Effective January 1, 2013. See note.) Public inspection of board records.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 1 (2011).

43-11-21.1. General anesthesia.

(a) No dentist shall administer general anesthesia on an outpatient basis unless such dentist has been issued a permit by the board under the conditions specified in this Code section. Such permit shall be subject to biennial renewal at the time the dentist is required to renew his or her license to practice dentistry. It shall be the responsibility of the dentist to provide such information as the board may require and to pay the separate initial issuance and renewal fees for the permit as may be established by the board.

(b) No dentist shall be issued a permit under this Code section nor have such permit renewed unless the board has received satisfactory evidence that such dentist:

(1)(A) Has successfully completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level at an institution accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, or by a nationally recognized health care accreditation body for hospitals; or

(B) Is a diplomate of the American Board of Oral and Maxillofacial Surgery, is a member of the American Association of Oral and Maxillofacial Surgeons, or is a fellow of the American Dental Society of Anesthesiology;

(2) Utilizes a properly equipped facility for the administration of general anesthesia, including physical plant and equipment which has been evaluated and certified by an on-site examination; and

(3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency in administering general anesthesia on a patient or patients in the dentist’s office in a safe and effective manner.

(c) In enforcing the provisions of this Code section, the board is authorized to designate qualified persons to perform the on-site exam-

ination and is further authorized to provide by rule or regulation for standards for physical plant, equipment, and personnel to be utilized in the administration of general anesthesia.

(d)(1) This Code section shall not prohibit a person who is duly licensed to practice medicine in this state and who is a member of the anesthesiology staff of an institution classified as a hospital and issued a permit as an institution under Code Section 31-7-1 from administering general anesthesia in a dental facility, except that such anesthesiologist shall remain on the premises of the dental facility until any patient given a general anesthetic by such anesthesiologist is stabilized and has regained consciousness.

(2) This Code section shall not prohibit a person who is duly licensed as a certified registered nurse anesthetist in this state from administering general anesthesia in a dental facility, provided that such anesthesia is administered under the direction and responsibility of a dentist duly permitted under this Code section and that such nurse anesthetist shall remain on the premises of the dental facility until any patient given a general anesthetic by such nurse anesthetist is stabilized and has regained consciousness.

(e) The board or its authorized designee may, upon reasonable notice, conduct an on-site inspection of the facility, equipment, and personnel of a dentist issued a permit under this Code section to determine if the standards of paragraph (2) of subsection (b) of this Code section are being maintained.

(f) The board may, upon proper application, grant a provisional permit to any dentist who meets the requirements of subparagraph (b)(1)(A) or (b)(1)(B) of this Code section, but such permit shall expire six months after its issuance or upon the board's determination by site visit that the requirements of paragraph (2) or (3) of subsection (b) of this Code section have not been met, whichever occurs earlier. The provisional permit may be renewed once, at the discretion of the board, for a period not to exceed six months following the original expiration date.

(g) A permit issued under this Code section may be revoked or not renewed if the board determines that the dentist holding such permit no longer meets any requirement of subsection (b) of this Code section. The board shall provide notice and opportunity for hearing under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in any case in which it revokes or refuses to renew a permit, provided that summary action regarding such permit shall be authorized under Code Section 50-13-18. (Code 1981, § 43-11-21.1, enacted by Ga. L. 1987, p. 932, § 3; Ga. L. 1999, p. 234, § 12; Ga. L. 2012, p. 337, § 9/SB 361.)

The 2012 amendment, effective July 1, 2012, substituted “or its successor agency, or by a nationally recognized health care accreditation body for hospi-

tals” for “, the Joint Commission on Accreditation of Hospitals, or their respective successor agencies” at the end of subparagraph (b)(1)(A).

ARTICLE 2

LICENSES FOR THE PRACTICE OF DENTISTRY

43-11-40. Qualification of applicants; criminal background check.

(a)(1) Applicants for a license to practice dentistry must have received a doctor of dental surgery (D.D.S.) degree or a doctor of dental medicine (D.M.D.) degree from a dental school approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, if any. Those applicants who have received a doctoral degree in dentistry from a dental school not so accredited must comply with the following requirements in order to submit an application for licensure:

(A) Successful completion at an accredited dental school approved by the board of the last two years of a program and receipt of the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and

(B) Certification by the dean of the accredited dental school where such supplementary program was taken that the candidate has achieved the same level of didactic and clinical competency as expected of a graduate of the school receiving a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree.

(2) The board may establish by rule or regulation the requirements for documentation of an applicant’s educational and personal qualifications for licensure.

(3) In order to be granted a license under this Code section, all applicants must pass a clinical examination approved by the board and a jurisprudence examination on the laws of this state and rules and regulations as they relate to the practice of dentistry as established or approved by the board, which shall be administered in the English language.

(b) All applications to the board for a license shall be made through the division director, who shall then submit all such applications to the board.

(c) Subject to the provisions of subsection (a) of Code Section 43-11-47, applicants who have met the requirements of this Code section shall be granted licenses to practice dentistry.

(d) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check. (Ga. L. 1920, p. 132, § 7; Code 1933, § 84-709; Ga. L. 1949, p. 1367, § 4; Ga. L. 1963, p. 273, § 1; Ga. L. 1972, p. 843, § 1; Ga. L. 1976, p. 484, § 1; Ga. L. 1982, p. 1056, § 4; Ga. L. 1987, p. 932, § 5; Ga. L. 2000, p. 1706, § 19; Ga. L. 2004, p. 720, § 4; Ga. L. 2012, p. 1081, § 1A/SB 338.)

The 2012 amendment, effective July 1, 2012, substituted “and receipt of” for “leading to” near the middle of subparagraph (a)(1)(A).

43-11-52. Volunteers in dentistry and dental hygiene; special licensing; construction.

(a) This Code section shall be known and may be cited as the “Georgia Volunteers in Dentistry and Dental Hygiene Act.”

(b) Notwithstanding any other provision of law, the board shall issue a special license to qualifying dentists and dental hygienists under the terms and conditions set forth in this Code section and pursuant to requirements which may be set forth in the rules and regulations of the board. The special license shall only be issued to a person who:

(1) Is retired from the practice of dentistry or dental hygiene and not currently engaged in such practice either full time or part time and has, prior to retirement, maintained full unrestricted licensure in good standing in dentistry or dental hygiene in any state; or

(2) Is currently licensed to practice dentistry or dental hygiene in any licensing jurisdiction in the United States and whose license is unrestricted and in good standing.

As used in this subsection, the term “unrestricted” means that no restrictions have been placed on the applicant’s license by any board, no sanctions or disciplinary actions have been imposed by any board on the applicant, and the applicant is not under probation or suspension by any board.

(c) The special licensee shall be permitted to practice dentistry or dental hygiene only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide dentistry or dental hygiene services only to indigent patients in areas which are underserved by dentists or dental hygienists or critical need population areas of the state, as determined by the board, or pursuant to Article 8

of Chapter 8 of Title 31. The practice of dental hygiene by a dental hygienist awarded a special license under this Code section shall be governed by Code Section 43-11-74.

(d) The person applying for the special license under this Code section shall submit to the board a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by the board, whereby he or she agrees unequivocally not to receive compensation for any dentistry or dental hygiene services he or she may render while in possession of the special license.

(e) The examination by the board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(f) If, at the time application is made for the special license, the dentist or dental hygienist is not in compliance with the continuing education requirements established by the board for dentists or dental hygienists in this state, the dentist or dental hygienist may be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(g)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing dentistry or dental hygiene under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1.

(2) The liability of persons practicing dentistry or dental hygiene pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section shall be governed by the provisions of such article.

(h) This Code section, being in derogation of the common law, shall be strictly construed.

(i) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check. (Code 1981, § 43-11-52, enacted by Ga. L. 2001, p. 329, § 1; Ga. L. 2002, p. 639, § 1; Ga. L. 2004, p. 720, § 8; Ga. L. 2005, p. 1493, § 3/HB 166; Ga. L. 2008, p. 354, § 4/HB 1222; Ga. L. 2012, p. 1081, § 1/SB 338.)

The 2012 amendment, effective July 1, 2012, in subsection (b), substituted “who: (1) Is retired” for “who is retired”, added “; or” and paragraph (2), and sub-

stituted “any board” for “the board” three times.

ARTICLE 3

DENTAL HYGIENISTS

43-11-74. Direct supervision required; scope of duties; exceptions to required supervision for dental screenings.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

CHAPTER 14

**ELECTRICAL CONTRACTORS, PLUMBERS,
CONDITIONED AIR CONTRACTORS,
LOW-VOLTAGE CONTRACTORS,
AND UTILITY
CONTRACTORS**

43-14-2. Definitions.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

CHAPTER 18

**FUNERAL DIRECTORS AND ESTABLISHMENTS,
EMBALMERS, AND CREMATORIES**

Article 1

**Funeral Directors and
Establishments,
Embalmers, and Crematories**

PART 1

GENERAL PROVISIONS

Sec.
43-18-1. Definitions.

Sec.
43-18-9. Disposition of veterans’ cremated remains.

PART 3

**LICENSES FOR FUNERAL DIRECTORS AND
EMBALMERS**

43-18-50. Application for funeral service apprenticeship; period of apprenticeship.

ARTICLE 1

FUNERAL DIRECTORS AND ESTABLISHMENTS, EMBALMERS,
AND CREMATORIES

.PART 1

GENERAL PROVISIONS

43-18-1. Definitions.

As used in this article, the term:

(1) "Alternative container" means any receptacle or enclosure which is of sufficient strength to be used to hold and to transport a dead human body.

(2) "Apprentice" means a person who practices embalming, funeral directing, or both, under the direct supervision of a funeral director, embalmer, or both, in this state.

(3) "Board" means the State Board of Funeral Service.

(4) "Casket" means a container which is designed for the encasement and viewing of a dead human body.

(5) "Cremation" means the reduction of the dead human body to residue by intense heat or any mechanical, chemical, thermal, or other professionally accepted process. Cremation also includes any other mechanical, chemical, thermal, or other professionally accepted process whereby human remains are pulverized, burned, recremented, or otherwise further reduced in size or quantity.

(6) "Crematory" means any place where cremation is performed, other than a hospital, clinic, laboratory, or other facility authorized by the Department of Community Health for such purposes.

(7) "Direct supervision" means that the embalmer, funeral director, or both, are present overseeing the activities of the apprentice.

(8) "Embalmer" means a person who practices embalming or uses in connection with that person's name the words "embalmer," "licensed embalmer," "undertaker," or "mortician" or offers or holds himself or herself out as offering such services.

(9) "Final disposition" means the final disposal of a dead human body whether it is by, but not limited to, earth interment, above-ground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal.

(10) "Funeral" or "funeral services" means the observances, services, or ceremonies held for dead human bodies and includes any service relating to the transportation, embalming, cremation, and interment of a dead human body.

(11) "Funeral director" means a person who practices funeral directing or uses in connection with that person's name or with a picture of that person the words "funeral director," "licensed funeral director," "undertaker," or "mortician" or offers or holds himself or herself out as offering such services.

(12) "Funeral director in full and continuous charge" means a funeral director who is approved by the board to assume full responsibility for the operations of a particular funeral establishment and who shall ensure that said establishment complies with this article and with all rules promulgated pursuant thereto.

(13) "Funeral establishment" means a place where embalming or funeral directing is practiced and which is open to the public and transacting business relating to funeral services.

(14) "Funeral merchandise" means the goods that may only be sold or offered for sale by a funeral director working in a funeral establishment and includes, but is not limited to, a casket or alternative container, but does not include an outer burial container or cemetery marker.

(15) "Funeral service contract" means a written or oral agreement between a funeral director or funeral establishment and a legally authorized person for the embalming, funeral, or final disposition of a dead human body.

(16) "Legally authorized person" means the deceased's surviving spouse, a son or daughter who is 18 years of age or older; the deceased's parent, a brother or sister who is 18 years of age or older; any other person who is 18 years of age or older and who is in the next degree of kinship to the deceased; the deceased's guardian or personal representative; or a public health officer.

(17) "Outer burial container" means an enclosure into which a casket is placed, including, but not limited to, a vault made of concrete, steel, fiberglass, or copper, a sectional concrete enclosure, a crypt, or a wooden enclosure.

(18) "Practice of embalming" means disinfecting or preserving or attempting to disinfect or preserve dead human bodies by replacing certain body fluids with preserving and disinfecting chemicals.

(19) "Practice of funeral directing" means making or directing, at need or preneed, arrangements for the preparation and transporta-

tion of dead human bodies for final disposition and the supervision and direction of all funeral services.

(20) “Retort” means a furnace where dead human bodies are cremated.

(21) “Soliciting” means the making of any uninvited contact with another person by a funeral director or by a funeral director’s agent, assistant, employer, or employee for the purpose of the sale of funeral services or merchandise but shall not mean any advertising which is directed to the public in general. (Code 1981, § 43-18-1, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1992, p. 2762, § 1; Ga. L. 2002, p. 641, § 3; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2012, p. 625, § 3/HB 933.)

The 2012 amendment, effective July 1, 2012, in paragraph (5), added “or any mechanical, chemical, thermal, or other professionally accepted process” at the end of the first sentence, and added the

last sentence; and, at the end of paragraph (10), added “and includes any service relating to the transportation, embalming, cremation, and interment of a dead human body”.

43-18-8. Identification of body or remains of deceased; affidavit required for cremated remains.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011).

43-18-9. Disposition of veterans’ cremated remains.

(a) As used in this Code section, the term:

(1) “Veteran” means a resident of this state who qualifies as a veteran under the rules of the United States Department of Veterans Affairs and who was discharged under conditions other than dishonorable.

(2) “Veterans’ organization” means the Department of Veterans Service, the National Cemetery Administration’s National Cemetery Scheduling Office, or any association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States Congress, such as the American Legion, the Legion of Honor, the Patriot Guard, the Missing in America Project, and the Vietnam Veterans of America.

(b) The funeral director shall make a reasonable effort to determine whether any dead body submitted for final disposition by cremation is that of a deceased veteran.

(c) The funeral director shall, at the time the cremation authorization form is signed:

(1) Inquire as to whether the legally authorized person has information or belief as to whether the deceased is a veteran; and

(2) Notify the legally authorized person of the responsibilities of the funeral director under this Code section.

(d) If the funeral director is unable to determine with certainty whether the deceased was a veteran through an inquiry with the legally authorized agent, then any veterans' organization shall be allowed access to all information available from the United States Department of Veterans Affairs regarding the deceased in the possession of the funeral director in charge of the crematory so that any veterans' organization may attempt to determine whether the deceased is a veteran. If any veterans' organization that is allowed access to information pursuant to this Code section discovers that the deceased is a veteran, the veterans' organization shall notify the funeral director.

(e)(1) If the funeral director determines that the deceased is a veteran from information provided by the legally authorized person, any veterans' organization, or otherwise, then such funeral director shall immediately notify the legally authorized person of such finding and shall advise that the deceased person may be eligible to be interred at an appropriate veterans' cemetery.

(2) If the funeral director determines that the deceased is a veteran from information provided by the legally authorized person, any veterans' organization, or otherwise, and the cremated remains are not claimed by a legally authorized person, then the funeral director shall hold any such cremated remains for at least 60 days. After 60 days, the funeral director shall send written notice to the legally authorized person who signed the cremation authorization form requesting disposition instructions. If the funeral director does not receive a written response from the legally authorized person within 30 days of sending a written notice, then the funeral director shall contact a veterans' organization so that arrangements for the disposition of the cremated remains of the veteran may be made in a state or national veterans' cemetery.

(f) Nothing in this Code section shall delay the authorized cremation of a deceased's remains.

(g)(1) A funeral director complying with this Code section shall be immune from any criminal or civil liability regarding:

(A) The determination of a deceased's status as a veteran;

(B) The release of information relating to the determination of a deceased's status as a veteran;

(C) The availability of interment or inurnment for a deceased veteran; or

(D) The release of cremated remains to a veterans' cemetery.

(2) A funeral director shall be immune from civil liability for any act or omission under this Code section except for willful or wanton misconduct.

(h) A veterans' organization shall be immune from civil liability for any act or omission related to the disposition of cremated remains under this Code section except for willful or wanton misconduct. (Code 1981, § 43-18-9, enacted by Ga. L. 2012, p. 881, § 2/SB 372.)

Effective date. — This Code section became effective May 1, 2012.

Editor's notes. — Ga. L. 2012, p. 881, § 1/SB 372, not codified by the General

Assembly, provides: "This Act shall be known as and may be cited as the 'Disposition of Veterans' Cremated Remains Act.'"

PART 3

LICENSES FOR FUNERAL DIRECTORS AND EMBALMERS

43-18-46. Grounds for denial or revocation of license or registration; other discipline.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

43-18-50. Application for funeral service apprenticeship; period of apprenticeship.

(a) Every person desiring to serve as an apprentice shall make application as a funeral service apprentice to the board upon a form provided by the board. The applicant must be at least 18 years of age and have either graduated from high school or have a general educational development certificate. The apprenticeship shall be served at an approved establishment and under the direct supervision of a funeral director, embalmer, or both. The application must be verified by oath of applicant and be accompanied by a fee to be established by the board. The application shall be submitted to the board and may be accepted or rejected by a majority of the board.

(b) An apprenticeship shall be approved for a specific establishment and under a specific supervising funeral director, embalmer, or both. Any change in establishment or supervising funeral director, embalmer, or both shall terminate that apprenticeship and shall require submission of a new application.

(c) The total period of apprenticeship shall be 3,120 hours and must be served in a minimum of 18 months, but the minimum period shall be in addition to the time required to graduate from a college of funeral

service or other college pursuant to paragraph (1) of subsection (b) of Code Section 43-18-41. An apprentice shall be authorized to earn apprenticeship hours in an amount to be determined by the board while attending a postgraduate school or a program at an accredited college of funeral service or other college approved by the board. (Code 1981, § 43-18-50, enacted by Ga. L. 1990, p. 1372, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 1998, p. 1322, § 2; Ga. L. 2012, p. 625, § 5/HB 933.)

The 2012 amendment, effective July 1, 2012, added the second sentence in subsection (c).

CHAPTER 21

OPERATORS OF HOTELS, INNS, AND ROADHOUSES

ARTICLE 1

RIGHTS, DUTIES, AND LIABILITIES OF INNKEEPERS

43-21-1. Definitions.

JUDICIAL DECISIONS

No duty to monitor medical conditions of guests. — O.C.G.A. § 43-21-1 et seq., does not impose upon innkeepers the duty to rescue and does not expand an innkeeper’s duty of care for the personal safety of the innkeeper’s guests beyond that required in the state’s caselaw; to require that an innkeeper monitor in any manner the possible health problems of a guest, which are not caused by or are unrelated to the stay at the facility, is not only unwarranted as a matter of law but unworkable as a matter of fact and practicality. *Rasnick v. Krishna Hospitality, Inc.*, 289 Ga. 565, 713 S.E.2d 835 (2011).

No duty to comply with requests to attempt rescue of guest from medical peril. — Court of appeals did not err in affirming an order granting a motel sum-

mary judgment in a wife’s a wrongful death action, alleging that the failure of the motel’s personnel to heed her concern about the guest amounted to a breach of duty to render aid to a guest because the motel had no duty to comply with the wife’s requests to attempt a rescue of the guest from his medical peril; the alleged negligence in the wife’s suit could not be credibly cast as a condition of the premises or akin to a premises hazard like a smoke-filled building because any risk or problem stemming from a medical condition unrelated to and not caused by the guest’s stay at the facility was not internal to the premises but rather internal to the guest. *Rasnick v. Krishna Hospitality, Inc.*, 289 Ga. 565, 713 S.E.2d 835 (2011).

43-21-3.1. Notice of termination of occupancy by innkeeper.

JUDICIAL DECISIONS

Proper termination of hotel room rental agreement.

As a hotel manager had grounds to conclude that a guest was causing a disturbance, the manager was authorized to evict the guest for cause without giving advance notice under O.C.G.A.

§ 43-21-3.1(a). Therefore, the guest's arrest for criminal trespass was legal and the guest's false imprisonment claim against the hotel and manager was properly dismissed on summary judgment. *Lewis v. Ritz Carlton Hotel Co., LLC*, 310 Ga. App. 58, 712 S.E.2d 91 (2011).

CHAPTER 23

LANDSCAPE ARCHITECTS

43-23-3. (Effective January 1, 2013. See note.) Seal.

Law reviews. — For article, "Evidence," see 27 Ga. St. U. L. Rev. 1 (2011). For article on the 2011 amendment of this

Code section, see 28 Ga. St. U. L. Rev. 1 (2011).

CHAPTER 24A

MASSAGE THERAPY PRACTICE

Sec.
43-24A-8. Licensure of massage therapists; application and requirements.

Sec.
43-24A-9. Provisional permits.
43-24A-13. License by endorsement.

43-24A-8. Licensure of massage therapists; application and requirements.

(a) No person may practice massage therapy in this state who is not a licensed massage therapist or the holder of a valid provisional permit issued by the division director pursuant to this chapter.

(b) Any applicant for a license as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

- (1) The applicant is at least 18 years of age;
- (2) The applicant has a high school diploma or its recognized equivalent;

(3) The applicant is a citizen of the United States or a permanent resident of the United States;

(4) The applicant is of good moral character. For purposes of this paragraph, “good moral character” means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant’s fitness to practice massage therapy;

(5) The applicant has satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by examination agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check;

(6) The applicant has completed successfully a board recognized educational program consisting of a minimum of 500 hours of course and clinical work; and

(7) The applicant has passed satisfactorily the National Certification Examination for Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an examination administered by another state or jurisdiction whose license requirements meet or exceed those of this state. (Code 1981, § 43-24A-8, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2012, p. 1032, § 1/SB 143.)

The 2012 amendment, effective May 2, 2012, deleted former subsection (b); redesignated former subsection (c) as present subsection (b); in present subsection (b), substituted “Any” for “On and after July 1, 2007, any”; and substituted the present provisions of paragraph (c)(5)

for the former provisions, which read: “The applicant agrees to provide the board with any and all information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check;”.

43-24A-9. Provisional permits.

(a) A provisional permit to practice as a provisionally permitted massage therapist shall, upon proper application, be issued for a six-month period to an applicant who meets the following criteria:

- (1) Holds a valid license as a massage therapist in another state;
- (2) Is not a resident of this state;

(3) Has not had a license or permit to practice as a massage therapist voided, revoked, suspended, or annulled by this state or another state; and

(4) Has not been convicted of a felony in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to such charge or the affording of first offender treatment to any such charge.

(b) A provisional permit shall require the applicant to work under the supervision of a licensed massage therapist as provided by the board. The board shall be authorized to promulgate rules and regulations regarding the requirements for such supervision and the enforcement thereof.

(c) A provisional permit may be voided if the board determines that the person holding such permit no longer meets one or more of the criteria set forth in subsection (a) of this Code section.

(d) A provisional permit issued pursuant to subsection (a) of this Code section shall have the same force and effect as a permanent license until the time of its expiration.

(e) A provisional permit issued pursuant to subsection (a) of this Code section shall expire on the same date as a license issued under this chapter to a holder of a provisional permit who has passed the examination pursuant to Code Section 43-24A-8. (Code 1981, § 43-24A-9, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2012, p. 1032, § 2/SB 143.)

The 2012 amendment, effective May 2, 2012, rewrote this Code section.

43-24A-13. License by endorsement.

Any applicant for a license by endorsement as a massage therapist must submit a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees, and evidence satisfactory to the board that:

(1) The applicant is at least 18 years of age;

(2) The applicant is of good moral character. For purposes of this paragraph, "good moral character" means professional integrity and a lack of any conviction for acts involving moral turpitude where the underlying conduct relates to the applicant's fitness to practice massage therapy;

(3) The applicant has satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and

the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by endorsement agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check; and

(4) The applicant is currently licensed as a massage therapist in another jurisdiction, state, or territory of the United States or foreign country which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter. (Code 1981, § 43-24A-13, enacted by Ga. L. 2005, p. 1251, § 1/SB 110; Ga. L. 2008, p. 1112, § 17/HB 1055; Ga. L. 2012, p. 1032, § 3/SB 143.)

The 2012 amendment, effective May 2, 2012, substituted the present provisions of paragraph (3) for the former provisions, which read: “The applicant agrees to provide the board with any and all

information necessary to perform a criminal background check and expressly consents and authorizes the board or its representative to perform such a check; and”.

CHAPTER 25A

MUSIC THERAPY

- Sec.
- 43-25A-1. Definitions.
 - 43-25A-2. Creation of Music Therapy Advisory Group; membership; terms; service.
 - 43-25A-3. Meetings; public education; consultation.
 - 43-25A-4. Use of title “music therapist.”
 - 43-25A-5. Application for music therapy license.

- Sec.
- 43-25A-6. Biennial renewal of license; address changes; failure to renew; inactive status of license.
 - 43-25A-7. Limited waiver of examination.
 - 43-25A-8. Authority of Secretary of State to investigate and act upon conduct.

Effective date. — This chapter became effective July 1, 2012.

43-25A-1. Definitions.

As used in this chapter, the term:

- (1) "Advisory group" means the Music Therapy Advisory Group.
- (2) "Board certified music therapist" means an individual who has completed the education and clinical training requirements established by the American Music Therapy Association, has passed the Certification Board for Music Therapists certification examination or transitioned into board certification, and remains actively certified by the Certification Board for Music Therapists.
- (3) "Music therapist" means a person licensed to practice music therapy pursuant to this chapter.
- (4) "Music therapy" means the clinical and evidence based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services appropriate for the client using music therapy interventions, which may include music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music. This term may include:
 - (A) Accepting referrals for music therapy services from physicians, psychologists, speech-language pathologists, occupational therapists, physical therapists, audiologists, or other medical, developmental, or mental health professionals; education professionals; family members; clients; or caregivers. Before providing music therapy services to a client for a medical, developmental, or mental health condition, the licensee shall collaborate, as applicable, with the client's physician, psychologist, or mental health professional to review the client's diagnosis, treatment needs, and treatment plan. During the provision of music therapy services to a client for a medical, developmental, or mental health condition, the licensee shall collaborate, as applicable, with the client's speech-language pathologist, occupational therapist, physical therapist, audiologist, or other medical or developmental professional to review the client's diagnosis, treatment needs, and treatment plan;
 - (B) Conducting a music therapy assessment of a client to collect systematic, comprehensive, and accurate information necessary to determine the appropriate type of music therapy services to provide for the client;
 - (C) Developing an individualized music therapy treatment plan for the client;

(D) Carrying out an individualized music therapy treatment plan that is consistent with any other medical, developmental, mental health, or educational services being provided to the client;

(E) Evaluating the client's response to music therapy and the individualized music therapy treatment plan and suggesting modifications, as appropriate;

(F) Developing a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, any physician, or other provider of health care or education of the client, any appropriate member of the family of the client, and any other appropriate person upon whom the client relies for support;

(G) Minimizing any barriers so that the client may receive music therapy services in the least restrictive environment; and

(H) Collaborating with and educating the client and the family or caregiver of the client or any other appropriate person about the needs of the client that are being addressed in music therapy and the manner in which the music therapy addresses those needs.

(5) "Office" means the office of the Secretary of State.

(6) "Secretary" means the Secretary of State or his or her designee. (Code 1981, § 43-25A-1, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-2. Creation of Music Therapy Advisory Group; membership; terms; service.

(a) There is created within the office of the Secretary of State a Music Therapy Advisory Group which shall consist of five members.

(b) The Secretary shall appoint all members of the advisory group. The advisory group shall consist of persons familiar with the practice of music therapy to provide the Secretary with expertise and assistance in carrying out his or her duties pursuant to this chapter.

(c) The Secretary shall appoint members of the advisory group to serve for terms of four years. The Secretary shall appoint three members who practice as music therapists in this state; one member who is a licensed health care provider who is not a music therapist; and one member who is a consumer.

(d) Members shall serve without compensation.

(e) Members may serve consecutive terms at the will of the Secretary. Any vacancy shall be filled in the same manner as the regular appointments. (Code 1981, § 43-25A-2, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-3. Meetings; public education; consultation.

(a) The advisory group shall meet at least once per year or as otherwise called by the Secretary.

(b) The Secretary shall consult with the advisory group prior to setting or changing fees in this chapter.

(c) The advisory group may facilitate the development of materials that the Secretary may utilize to educate the public concerning music therapist licensure, the benefits of music therapy, and utilization of music therapy by individuals and in facilities or institutional settings.

(d) The advisory group may act as a facilitator of state-wide dissemination of information between music therapists, the American Music Therapy Association or any successor organization, the Certification Board for Music Therapists or any successor organization, and the Secretary.

(e) The advisory group shall provide analysis of disciplinary actions taken, appeals and denials, or revocation of licenses at least once per year.

(f) The Secretary shall seek the advice of the advisory group for issues related to music therapy. (Code 1981, § 43-25A-3, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-4. Use of title “music therapist.”

After January 1, 2014, no person without a license as a music therapist shall use the title “music therapist” or similar title, or perform the duties of a music therapist, provided that this chapter shall not prohibit any practice of music therapy that is an integral part of a program of study for students enrolled in an accredited music therapy program. Nothing in this Code section shall be construed as preventing or restricting the practice, services, or activities of any profession including occupational therapists, speech-language pathologists, physical therapists, or audiologists that may also use music in the scope of their practice. (Code 1981, § 43-25A-4, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-5. Application for music therapy license.

The Secretary shall issue a license to an applicant for a music therapy license when such applicant has completed and submitted an application upon a form and in such manner as the Secretary prescribes, accompanied by applicable fees, and evidence satisfactory to the Secretary that:

- (1) The applicant is at least 18 years of age;
- (2) The applicant holds a bachelor's degree or higher in music therapy, or its equivalent, from a program approved by the American Music Therapy Association or any successor organization within an accredited college or university;
- (3) The applicant successfully completes a minimum of 1,200 hours of clinical training, with at least 180 hours in preinternship experiences and at least 900 hours in internship experiences, provided that the internship shall be approved by an academic institution, the American Music Therapy Association or any successor organization, or both;
- (4) The applicant is in good standing based on a review of the applicant's music therapy licensure history in other jurisdictions, including a review of any alleged misconduct or neglect in the practice of music therapy on the part of the applicant;
- (5) The applicant provides proof of passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization or provides proof of being transitioned into board certification, and provides proof that the applicant is currently a board certified music therapist; and
- (6) The applicant has satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the Secretary. Application for a license under this Code section shall constitute express consent and authorization for the Secretary or his or her representative to perform a criminal background check. Each applicant who submits an application to the Secretary for licensure by examination agrees to provide the Secretary with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check. (Code 1981, § 43-25A-5, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-6. Biennial renewal of license; address changes; failure to renew; inactive status of license.

(a) Every license issued under this chapter shall be renewed biennially. A license shall be renewed upon payment of a renewal fee if the applicant is not in violation of any of the terms of this chapter at the time of application for renewal. The following shall also be required for license renewal:

- (1) Proof of maintenance of the applicant's Certification Board for Music Therapists credentials; and

(2) Proof of completion of a minimum of 40 hours of continuing education in a program approved by the Certification Board of Music Therapists or any successor organization and any other continuing education requirements established by the Secretary.

(b) A licensee shall inform the Secretary of any changes to his or her address. Each licensee shall be responsible for timely renewal of his or her license.

(c) Failure to renew a license shall result in forfeiture of the license. Licenses that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license, and the Secretary may require the individual to reapply for licensure as a new applicant.

(d) Upon written request of a licensee, the Secretary may place an active license on an inactive status subject to an inactive status fee established by the Secretary. The licensee, upon request and payment of the inactive license fee, may continue on inactive status for a period up to two years. An inactive license may be reactivated at any time by making a written request to the Secretary and by fulfilling requirements established by the Secretary. (Code 1981, § 43-25A-6, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-7. Limited waiver of examination.

The Secretary shall waive the examination requirement for an applicant until January 1, 2014, who is:

(1) Certified as a music therapist and in good standing with the Certification Board for Music Therapists; or

(2) Designated as a registered music therapist, certified music therapist, or advanced certified music therapist and in good standing with the National Music Therapy Registry. (Code 1981, § 43-25A-7, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

43-25A-8. Authority of Secretary of State to investigate and act upon conduct.

(a) The Secretary may revoke, suspend, deny, or refuse to issue or renew a license; place a licensee on probation; or issue a letter of admonition upon proof that the licensee:

(1) Has procured or attempted to procure a license by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;

- (2) Has been convicted of a felony as provided under state law;
- (3) Has willfully or negligently acted in a manner inconsistent with the health or safety of persons under the individual's care;
- (4) Has had a license to practice music therapy suspended or revoked or has otherwise been subject to discipline related to the individual's practice of music therapy in any other jurisdiction;
- (5) Has committed a fraudulent insurance act;
- (6) Excessively or habitually uses alcohol or drugs, provided that the Secretary shall not discipline an individual under this paragraph if the individual is enrolled in a substance abuse program approved by the office; or
- (7) Has a physical or mental disability that renders the individual incapable of safely administering music therapy services.
- (b) The Secretary is authorized to conduct investigations into allegations of conduct described in subsection (a) of this Code section.
- (c) In addition to suspension, revocation, denial, or refusal to renew a license, the Secretary shall fine a person found to have violated any provision of this chapter or any rule adopted by the Secretary under this chapter not less than \$100.00 nor more than \$1,000.00 for each violation.
- (d) The provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," shall be applicable to the Secretary of State and the provisions of this chapter. (Code 1981, § 43-25A-8, enacted by Ga. L. 2012, p. 884, § 1/SB 414.)

CHAPTER 26

NURSES

Article 1

Georgia Registered Professional Nurse Practice Act

Sec.
43-26-3. Definitions.

Article 2

Licensed Practical Nurses

Sec.
43-26-32. Definitions.

ARTICLE 1

GEORGIA REGISTERED PROFESSIONAL NURSE PRACTICE ACT

43-26-3. Definitions.

As used in this article, the term:

(1) “Advanced nursing practice” means practice by a registered professional nurse who meets those educational, practice, certification requirements, or any combination of such requirements, as specified by the board and includes certified nurse midwives, nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists in psychiatric/mental health, and others recognized by the board.

(1.1) “Advanced practice registered nurse” means a registered professional nurse licensed under this chapter who is recognized by the board as having met the requirements established by the board to engage in advanced nursing practice and who holds a master’s degree or other graduate degree from an approved nursing education program and national board certification in his or her area of specialty, or a person who was recognized as an advanced practice registered nurse by the board on or before June 30, 2006. This paragraph shall not be construed to require a certified registered nurse anesthetist who graduated from an approved nurse anesthetist educational program prior to January 1, 1999, to hold a master’s degree or other graduate degree.

(1.2) “Approved nursing education program” located in this state means a nursing education program approved by the board as meeting criteria established by the board. An “approved nursing education program” located outside this state means a nursing education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board for nursing education programs located in this state. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(C) A postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A postsecondary institution of higher education that is not accredited in accordance with subparagraph (C) of this paragraph, but whose curriculum has been determined by the board to meet criteria similar to and not less stringent than criteria established by the board for other approved nursing education programs.

(2) "Board" means the Georgia Board of Nursing created in Code Section 43-26-4.

(3) "Consumer member" means a United States citizen and Georgia resident who is knowledgeable about consumer health concerns, does not derive that person's primary livelihood from the practice of nursing, and shall neither be, nor ever have been, a health care provider or enrolled in any health related educational program.

(4) "License" means a current document, issued by the board, permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse.

(5) "Licensure" means the bestowing of a current license by the board permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse.

(6) "Practice nursing" or "practice of nursing" means to perform for compensation or the performance for compensation of any act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span. It requires substantial specialized knowledge of the humanities, natural sciences, social sciences, and nursing theory as a basis for assessment, nursing diagnosis, planning, intervention, and evaluation. It includes, but is not limited to, provision of nursing care; administration, supervision, evaluation, or any combination thereof, of nursing practice; teaching; counseling; the administration of medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, or a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(7) "Practice nursing as a licensed undergraduate nurse" means to practice nursing by performing for compensation selected acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse, a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(8) "Practice nursing as a registered professional nurse" means to practice nursing by performing for compensation any of the following:

(A) Assessing the health status of individuals, groups, or both throughout the life span;

(B) Establishing a nursing diagnosis;

(C) Establishing nursing goals to meet identified health care needs;

(D) Planning, implementing, and evaluating nursing care;

(E) Providing for safe and effective nursing care rendered directly or indirectly;

(F) Managing and supervising the practice of nursing;

(G) Collaborating with other members of the health care team in the management of care;

(H) Teaching the theory and practice of nursing;

(I) Administering, ordering, and dispensing medications, diagnostic studies, and medical treatments authorized by protocol, when such acts are authorized by other general laws and such acts are in conformity with those laws;

(J) Administering medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title; or

(K) Performing any other nursing act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span.

(9) “Registered professional nurse” means a person who is authorized by a license issued under this article to practice nursing as a registered professional nurse. (Code 1981, § 43-26-3, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2006, p. 125, § 3/SB 480; Ga. L. 2007, p. 460, § 1/SB 222; Ga. L. 2009, p. 210, § 1/HB 475; Ga. L. 2011, p. 779, § 1/SB 100; Ga. L. 2012, p. 19, § 1/HB 675.)

The 2012 amendment, effective February 16, 2012, in paragraph (1.2), added “for nursing education programs located in this state” at the end of the second sentence of the introductory paragraph; in subparagraph (1.2)(C), deleted “nonprofit” preceding “postsecondary”, and added “or” at the end; deleted former subparagraph

(1.2)(D), which read: “A proprietary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or”; redesignated former subparagraph (1.2)(E) as present subparagraph (1.2)(D); and, in subparagraph (1.2)(D), deleted “nonprofit” preceding

“postsecondary”, and deleted “that is a four-year institution” following “higher education”.

ARTICLE 2

LICENSED PRACTICAL NURSES

43-26-32. Definitions.

As used in this article, the term:

(1) “Active practice as a licensed practical nurse” means to practice practical nursing as a licensed practical nurse by performing for compensation acts authorized by the board.

(1.1) “Approved nursing education program” located in this state means a nursing education program approved by the board as meeting criteria established by the board. An “approved nursing education program” located outside this state means a nursing education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board for nursing education programs located in this state. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia;

(C) A postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A postsecondary institution of higher education that is not accredited in accordance with subparagraph (C) of this paragraph, but whose curriculum has been determined by the board to meet criteria similar to and not less stringent than criteria established by the board for other approved nursing education programs.

(2) “Board” means the Georgia Board of Examiners of Licensed Practical Nurses created in Code Section 43-26-34.

(3) “Consumer member” means a United States citizen and Georgia resident who is knowledgeable about consumer health concerns, does not derive that person’s primary livelihood from the practice of nursing, and shall neither be nor ever have been a health care provider or enrolled in any health related educational program.

(4) “License” means a current document, issued by the board, permitting a person to practice practical nursing as a licensed practical nurse.

(5) “Licensed practical nurse” means a person who has completed a board approved nursing program necessary to qualify for examination for licensure and who is authorized by a license issued under this article to practice practical nursing.

(6) “Licensure” means the bestowing of a current license by the board permitting a person to practice practical nursing as a licensed practical nurse.

(7) “The practice of licensed practical nursing” means the provision of care for compensation, under the supervision of a physician practicing medicine, a dentist practicing dentistry, a podiatrist practicing podiatry, or a registered nurse practicing nursing in accordance with applicable provisions of law. Such care shall relate to the maintenance of health and prevention of illness through acts authorized by the board, which shall include, but not be limited to, the following:

(A) Participating in the assessment, planning, implementation, and evaluation of the delivery of health care services and other specialized tasks when appropriately trained and consistent with board rules and regulations;

(B) Providing direct personal patient observation, care, and assistance in hospitals, clinics, nursing homes, or emergency treatment facilities, or other health care facilities in areas of practice including, but not limited to: coronary care, intensive care, emergency treatment, surgical care and recovery, obstetrics, pediatrics, outpatient services, home health care, or other such areas of practice;

(C) Performing comfort and safety measures;

(D) Administering treatments and medication; and

(E) Participating in the management and supervision of unlicensed personnel in the delivery of patient care. (Code 1981, § 43-26-32, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 1; Ga. L. 2009, p. 210, § 4/HB 475; Ga. L. 2012, p. 19, § 2/HB 675.)

The 2012 amendment, effective February 16, 2012, in paragraph (1.1), added “for nursing education programs located in this state” at the end of the second sentence of the introductory paragraph; deleted “nonprofit” preceding “postsecond-

ary” in subparagraph (1.1)(C); and substituted the present provisions of subparagraph (1.1)(D) for the former provisions, which read: “A proprietary institution of higher education that is accredited by a regional accrediting agency recognized by

the United States Department of Education.”

CHAPTER 28

OCCUPATIONAL THERAPISTS

43-28-6. (Effective January 1, 2013. See note.) Service of process and documents on division director.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
For article on the 2011 amendment of this

CHAPTER 29

DISPENSING OPTICIANS

43-29-4. (Effective January 1, 2013. See note.) Board records and seal.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
For article on the 2011 amendment of this

CHAPTER 33

PHYSICAL THERAPISTS

43-33-9. (Effective January 1, 2013. See note.) Division director as secretary of board; subpoena power; service of process and documents.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
For article on the 2011 amendment of this

43-33-18. (Effective January 1, 2013. See note.) Refusal to grant or restore licenses; discipline of licensees; suspension, revocation, or restriction of licenses; immunity for violation reporters.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
For article on the 2011 amendment of this

CHAPTER 34

PHYSICIANS, ACUPUNCTURE, PHYSICIAN ASSISTANTS, CANCER AND GLAUCOMA TREATMENT, RESPIRATORY CARE, CLINICAL PERFUSIONISTS, AND ORTHOTICS AND PROSTHETICS PRACTICE

Article 1

Georgia Composite Medical Board

Sec.
43-34-7. Maintenance of roster; confidentiality.

Article 7

Clinical Perfusionist Licensure

Sec.
43-34-171. Definitions.

ARTICLE 1

GEORGIA COMPOSITE MEDICAL BOARD

43-34-6. Board as an independent agency; executive director; meetings and hearings; licenses, certificates, and permits; investigations; venue; credit to veterans; annual report.

Law reviews. — For article, “Crimes and Offenses,” see 27 Ga. St. U. L. Rev. 131 (2011).

43-34-7. Maintenance of roster; confidentiality.

The executive director shall prepare and maintain a roster containing the names and business addresses of all current licensees, certificate holders, and permit holders for each of the various professions regulated by the Georgia Composite Medical Board. A copy of the roster shall be available to any person upon request at a fee prescribed by the board sufficient to cover the cost of printing and distribution. The following shall be treated as confidential, not subject to Article 4 of

Chapter 18 of Title 50, relating to open records, and shall not be disclosed without the approval of the board:

(1) Applications and other personal information submitted by applicants, except to the applicant, the staff, and the board;

(2) Information, favorable or unfavorable, submitted by a reference source concerning an applicant, except to the staff and the board;

(3) Examination questions and other examination materials, except to the staff and the board; and

(4) The deliberations of the board with respect to an application, an examination, a complaint, an investigation, or a disciplinary proceeding, except as may be contained in official board minutes; provided, however, that such deliberations may be released only to another state or federal enforcement agency or lawful licensing authority. Releasing the documents pursuant to this paragraph shall not subject any otherwise privileged documents to the provisions of Article 4 of Chapter 18 of Title 50. (Code 1981, § 43-34-7, enacted by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2012, p. 218, § 12/HB 397.)

The 2012 amendment, effective April 18 of Title 50” for “Code Section 50-18-70” 17, 2012, substituted “Article 4 of Chapter 18 of Title 50” for “Code Section 50-18-70” in paragraph (4).

43-34-8. (Effective January 1, 2013. See note.) Authority to refuse license, certificate, or permit or issue discipline; suspension; restoration; investigations; evidentiary privileges; closed hearings; immunity for reporting; failure to appear; publication of final disciplinary actions.

Cross references. — Requirement to determine probable gestational age of unborn child, § 31-9B-2. *dence,”* see 27 Ga. St. U. L. Rev. 1 (2011). For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 1 (2011).

Law reviews. — For article, “Evi-

ARTICLE 2

MEDICAL PRACTICE

43-34-25. Delegation of certain medical acts to advanced practice registered nurse; construction and limitations of such delegation; definitions; conditions of nurse protocol; issuance of prescription drug orders.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

43-34-26.1. Influenza vaccine protocol agreements.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

ARTICLE 4

PHYSICIAN ASSISTANTS

43-34-103. Application for assistant; number of assistants; job descriptions; duties; receipt of samples; employment by nonpracticing physicians; delegated authority; temporary practice agreements; assistance during emergencies; pronouncement of death.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

ARTICLE 7

CLINICAL PERFUSIONIST LICENSURE

43-34-171. Definitions.

As used in this article, the term:

(1) “Advisory committee” means the committee appointed pursuant to Code Section 43-34-180.

(2) “Board” means the Georgia Composite Medical Board.

(3) “Extracorporeal circulation” means the diversion of a patient’s blood through a heart-lung machine or a similar device that assumes the function of the patient’s heart, lungs, kidneys, liver, or other organ.

(4) “License” means a license to practice as a licensed clinical perfusionist or provisional licensed clinical perfusionist.

(5) “Licensed clinical perfusionist” means a person licensed as such pursuant to this article.

(6) “Perfusion” means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory system or other organ, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under the order and supervision of a physician, including, but not limited to:

(A) Extracorporeal support, including:

(i) Cardiopulmonary bypass for adult, pediatric, and neonatal patients;

(ii) Cardiopulmonary bypass for congenital and acquired cardiovascular disorders;

(iii) Extracorporeal circulatory support for renal, neurological, hepatic, and vascular surgery;

(iv) Extracorporeal resuscitation; and

(v) Extracorporeal circulation for long-term support of failing respiratory or cardiac function, or both;

(B) Associated extracorporeal support functions, including:

(i) Myocardial protection;

(ii) Hemofiltration and hemodialysis;

(iii) Anticoagulation and hemostasis monitoring, analysis, and intervention;

(iv) Thermal regulation, including hypothermia and hyperthermia;

(v) Blood gas and blood chemistry monitoring, analysis, and intervention;

(vi) Physiological monitoring, analysis, and intervention; and

(vii) Administration of blood components, pharmaceuticals, chemotherapeutics, and anesthetic agents as directed by a licensed physician;

(C) Heart failure therapy and support, including:

(i) Ventricular assist device management;

(ii) Intra-aortic balloon counterpulsation;

(iii) Temporary pacemaker management;

(iv) External counterpulsation;

(v) Transportation of patient on extracorporeal support; and

(vi) Periodic flow augmentation therapy;

(D) Blood management, including:

(i) Autotransfusion;

(ii) Platelet concentrate; and

(iii) Nondifferentiated progenitor cell harvest; and

(E) Other clinical functions, including:

- (i) Isolated limb and organ perfusion;
- (ii) Isolated limb and organ delivery of chemotherapeutics, progenitor cells, gene therapy vectors, and related matters;
- (iii) Organ preservation;
- (iv) Thermogenic lavage;
- (v) Electrophysiological analysis; and
- (vi) Intravascular membrane oxygenation.

Nothing in this paragraph shall be construed to prevent any licensed health care professional from performing any functions for which such health care professional is legally authorized to perform.

(7) “Perfusion protocols” means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed clinical perfusionists, and other health care professionals.

(8) “Physician” means a person licensed to practice medicine under Article 2 of this chapter.

(9) “Provisional licensed clinical perfusionist” means a person provisionally licensed pursuant to this article. (Code 1981, § 43-34-171, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 779, § 1E/SB 100; Ga. L. 2012, p. 775, § 43/HB 942.)

The 2012 amendment, effective May 1, 2012, part of an Act to revise, modernize, and correct the Code, revised language in division (6)(B)(vii).

ARTICLE 9

COSMETIC LASER SERVICES

Delayed effective date. — Ga. L. 2007, p. 626, § 2, provides that this article, as amended by Ga. L. 2009, p. 859, § 1, and Ga. L. 2009, p. 989, §§ 1-6, becomes effective only when funds are specifically appropriated for purposes of this Act in a General Appropriations Act

making specific reference to this Act and shall become effective when funds so appropriated become available for expenditure. Funds were not appropriated at the 2007, 2008, 2009, 2010, 2011, or 2012 session of the General Assembly.

CHAPTER 38

OPERATORS OF PRIVATE DETECTIVE BUSINESSES
AND PRIVATE SECURITY BUSINESSES

43-38-10. Permits to carry firearms; proficiency requirement; exemption from specified laws; denial, refusal to renew, and suspension of permits; effect of license suspension and restoration.

Law reviews. — For article, “Crimes and Offenses,” see 27 Ga. St. U. L. Rev. 131 (2011).

CHAPTER 39A

REAL ESTATE APPRAISERS

Sec.		Sec.	
43-39A-2.	Definitions.		tions; revocation of
43-39A-3.	Georgia Real Estate Appraisers Board; membership; qualifications; recusal for conflict of interest; terms; removal; meetings; compensation.		classification; noncompliance with child support orders; borrowers in default.
		43-39A-18.	Penalties for violations; unfair trade practices; civil judgments.
43-39A-14.	Required conduct of applicants; refusal of classification; imposition of sanc-	43-39A-18.1.	Alternative disciplinary procedures; citations.

43-39A-2. Definitions.

As used in this chapter, the term:

- (1) “Analysis” means a study of real estate or real property other than one estimating value.
- (2) “Appraisal” or “real estate appraisal” means an analysis, opinion, or conclusion prepared by an appraiser relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
- (3)(A) “Appraisal management company” means a person who for compensation:

- (i) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

(ii) Administers a network of appraisers performing real estate appraisal services as independent contractors;

(iii) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

(iv) Otherwise serves as a third-party broker of appraisal services.

(B) "Appraisal management company" does not include:

(i) Any person licensed to practice law in this state who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an appraiser;

(ii) Any person who contracts with an appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and who, upon the completion of such an assignment, cosigns the appraisal report with the appraiser who is acting as an independent contractor;

(iii) Any federal, state, or local government or any of its departments, agencies, or authorities that order appraisals;

(iv) Any person who orders an appraisal on behalf of any federal, state, or local government or its departments, agencies, or authorities as an employee thereof; or

(v) A relocation company.

(4) "Appraisal management services" means services performed by an appraisal management company and may include, but are not limited to, such activities as recruiting appraisers, contracting with appraisers to perform real estate appraisal activity, negotiating fees for appraisals, receiving appraisal orders and appraisal reports, and submitting appraisal reports received from appraisers to clients.

(5) "Appraisal report" means any communication, written or oral, of an appraisal. For purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real property is deemed to be an oral appraisal report.

(6) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors shall not be an appraisal review.

(7) "Appraisal Subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by

the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended.

(8) "Appraiser" means any person who, for a valuable consideration or with the intent or expectation of receiving the same from another, engages in real estate appraisal activity on any type of real estate or real property.

(9) "Appraiser classification" means any category of appraiser which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category, including the registration of real estate appraisal management companies.

(10) "Appraiser panel" means a group of independent appraisers selected to perform an appraisal valuation or analysis for an appraisal management company.

(11) "Board" means the Georgia Real Estate Appraisers Board established pursuant to the provisions of this chapter.

(12) "Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given, signed, and certified as such by a certified real estate appraiser. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this chapter.

(13) "Client" means any person who enters into an agreement with an appraiser or an appraisal management company for the performance of real estate appraisal activity.

(14) "Commission" means the Georgia Real Estate Commission created in Code Section 43-40-2.

(15) "Commissioner" means the real estate commissioner.

(16) "Controlling person" means:

(A) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(B) An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(17) "Evaluation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.

(18) "Federally related transaction" means any real estate related financial transaction which (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser.

(19) "Independent appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property.

(20) "Owner" means any person who owns 5 percent or more of an appraisal management company.

(21) "Person" means an individual, partnership, limited liability company, limited partnership, corporation, association, or any other legal or commercial entity.

(22) "Real estate" means condominiums and leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere. Such term also includes any structure or structures equipped with the necessary service connections and made so as to be readily moveable as a unit or units when such a structure is affixed to land.

(23) "Real estate appraisal activity" means the act or process of valuation of real estate or real property and preparing an appraisal report.

(24) "Real estate related financial transaction" means any transaction involving:

(A) The sale, lease, purchase, or exchange of or investment in real estate or real property or the financing thereof;

(B) The refinancing of real estate or real property; and

(C) The use of real estate or real property as security for a loan or investment, including mortgage backed securities.

(25) "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

(25.1) "Relocation company" means a business entity that acts as an agent or contractor of an employer for the purposes of relocating

the employees of such employer and determining an anticipated sales price of the residences of the employees being relocated.

(26) “Specialized services” means services, other than independent appraisal assignments which are performed by an appraiser. Specialized services may include marketing, financing, and feasibility studies; valuations; analyses; and opinions and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling.

(27) “State” means any state, district, territory, possession, or province of the United States or Canada and any sovereign nation or any political subdivision of such sovereign nation.

(28) “Valuation” means an estimate of the value of real estate or real property.

(29) “Valuation assignment” means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time. (Code 1981, § 43-39A-2, enacted by Ga. L. 1990, p. 1701, § 1; Ga. L. 1991, p. 266, § 1; Ga. L. 1992, p. 1402, § 1; Ga. L. 1997, p. 405, § 1; Ga. L. 2003, p. 370, § 1; Ga. L. 2010, p. 765, § 2/HB 1050; Ga. L. 2011, p. 752, § 43/HB 142; Ga. L. 2012, p. 1099, §§ 1, 2/SB 365.)

The 2012 amendment, effective July 1, 2012, deleted “or” at the end of division (3)(iii); substituted “; or” for the period at the end of division (3)(iv); added division (3)(v); and added paragraph (25.1).

43-39A-3. Georgia Real Estate Appraisers Board; membership; qualifications; recusal for conflict of interest; terms; removal; meetings; compensation.

(a) There is created the Georgia Real Estate Appraisers Board, which shall consist of five members. All members must be residents of Georgia. One member shall be a public member. The public member of the board shall not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. Four members shall be real estate appraisers who have been actively engaged in the real estate appraisal business for at least three years. In appointing real estate appraisers to the board, while not automatically excluding other appraisers, the Governor shall give preference to real estate appraisers who do not hold an active, occupational license which authorizes their work in real estate brokerage or mortgage lending activities, who do not have a financial interest in any real estate brokerage firm or mortgage lending firm, and who are not employees of real estate brokerage firms or mortgage lending firms.

(b) The Governor shall appoint the members of the board, subject to confirmation by the Senate, with consideration given to appropriate geographic representation and to areas of appraisal expertise. Any such appointments made when the Senate is not in session shall be effective until acted upon by the Senate.

(c) A member of the board shall recuse himself or herself from voting on matters in which the member has a conflict of interest. Whenever an investigation authorized by this chapter results in the board's initiating a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," against a member, such member shall be recused from voting on such matter and may not discuss the matter with other board members or be present when the board discusses or votes on such matter.

(d) The term of each member of the board shall be five years, except that one of the successors to the two members first appointed to serve until July 1, 1992, shall be appointed to serve until July 1, 1994, and one of the successors to the two members first appointed to serve until July 1, 1993, shall be appointed to serve until July 1, 1995. In the event of a vacancy, the Governor shall appoint a person to fill such vacancy and the person so appointed shall serve for the remainder of the unexpired term.

(e) Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. The Governor, after giving notice and opportunity for a hearing, may remove from office any member of the board for any of the following:

(1) Inability to perform or neglecting to perform the duties required of members;

(2) Incompetence;

(3) Dishonest conduct; or

(4) Having a disciplinary sanction other than a citation or a letter of findings authorized by this chapter imposed by any professional licensing agency on such member's right to practice a trade or profession.

(f) The members of the board shall annually elect a chairperson from among the members to preside at board meetings.

(g) The board shall meet at least once each calendar quarter, or as often as is necessary, and remain in session as long as the chairperson shall deem it necessary to give full consideration to the business before the board. A quorum of the board shall be three members. Members of the board or others may be designated by the chairperson of the board,

in a spirit of cooperation, to confer with similar boards of other states, attend interstate meetings, and generally do such acts and things as may seem advisable to the board in the advancement of the profession and the standards of real estate appraisal activity.

(h) Each member of the board shall receive as compensation for each day actually spent on his or her official duties at scheduled meetings and for time actually required in traveling to and from its meetings, not to exceed one day's traveling time, the sum of \$25.00 and his or her actual and necessary expenses incurred in the performance of official duties.

(i) The commission shall supply staff support for the board. The commissioner shall serve as executive officer of the board. The commissioner shall be charged with the duties and powers as delegated by the board. (Code 1981, § 43-39A-3, enacted by Ga. L. 1990, p. 1701, § 1; Ga. L. 1991, p. 266, § 2; Ga. L. 1992, p. 1402, § 1; Ga. L. 2000, p. 1527, § 4; Ga. L. 2006, p. 792, § 1/SB 547; Ga. L. 2012, p. 1099, § 3/SB 365.)

The 2012 amendment, effective July 1, 2012, inserted "or a letter of findings" near the middle of paragraph (e)(4).

43-39A-14. Required conduct of applicants; refusal of classification; imposition of sanctions; revocation of classification; noncompliance with child support orders; borrowers in default.

(a) Appraiser classifications shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such manner as to safeguard the interests of the public and only after satisfactory proof of such qualifications has been presented to the board.

(b)(1) As used in this subsection, the term:

(A) "Conviction" means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) "Felony" means any offense committed:

(i) Within this state and deemed a felony under the laws of this state or under the laws of the United States; or

(ii) In another state and deemed a felony under the laws of that state or the laws of the United States.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction, provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this state or any other state shall be eligible to become an applicant for a licensure or an approval authorized by this chapter only if:

(A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval, provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;

(B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation violation, or a crime involving moral turpitude are pending against the person; and

(C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(2) Where an applicant for any classification or approval authorized by this chapter has been convicted in a court of competent jurisdiction of this state or any other state of the offense of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud or other like offense or offenses or has been convicted of a felony, a sexual offense, a probation violation, or a crime involving moral turpitude, such conviction in itself may be a sufficient ground for refusal of a classification or approval. An

applicant for any classification or approval authorized by this chapter who has been convicted of any offense enumerated in this paragraph may be issued a classification or approval by the board only if:

(A) The time periods identified in paragraph (1.1) of this subsection have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interest of the public.

(c) Where an applicant or an appraiser has been found guilty of a violation of the federal fair housing law or Article 4 of Chapter 3 of Title 8 by an administrative law judge or a court of competent jurisdiction and after any appeal of such conviction is concluded, such conviction may in itself be a sufficient ground for refusal of an appraiser classification or the imposition of any sanction permitted by this chapter.

(d) Where an applicant or an appraiser has made a false statement of material fact on an application or caused to be submitted or been a party to preparing or submitting any falsified application to the board, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the appraiser classification.

(e) Grounds for suspension or revocation of an appraiser classification, as provided for by this chapter, shall also be grounds for refusal to grant an appraiser classification.

(f) The conduct provided for in subsections (a) through (d) and subsection (h) of this Code section which relates to the denial of an appraiser classification to an applicant shall also be grounds for the imposition of any sanction permitted by this chapter when the conduct is that of an appraiser.

(g) Whenever the board initiates an investigation as provided in Code Section 43-39A-22 to determine whether an appraiser has violated any provision of this chapter or the rules and regulations adopted pursuant to this chapter and such appraiser:

(1) Surrendered or surrenders an appraiser classification to the board;

(2) Allowed or allows an appraiser classification to lapse due to failure to meet education requirements provided by law; or

(3) Allowed or allows an appraiser classification to lapse due to failure to pay any required fees,

the board may issue an order revoking such appraiser's classification. The order shall be effective ten days after the order is served on the appraiser unless the appraiser makes a written request for a hearing before the board, in which event, the board shall file a notice of hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Service shall be accomplished as provided for in Code Section 43-39A-21.

(h) Whenever any occupational licensing body of this state or any other state has disciplined any license or classification of an applicant for any appraiser classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state or any other state after that occupational licensing body has initiated an investigation or a disciplinary process regarding such applicant's licensure or classification, such discipline, lapsing, or surrender in itself may be a sufficient ground for refusal of an appraiser classification. Whenever any occupational licensing body of this state or any other state has revoked the license or classification of an applicant for a classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state or any other state after that body has initiated an investigation or a disciplinary process regarding such applicant's license or classification, the board may issue an appraiser classification only if:

(1) At least five years have passed since the date that the applicant's occupational registration, license, or certification was revoked or surrendered;

(2) No criminal charges are pending against the applicant at the time of application; and

(3) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interests of the public.

(i) Whenever any appraiser is convicted of any offense enumerated in subsection (b) of this Code section, such appraiser shall immediately notify the board of that conviction. Such appraiser's appraiser classification shall automatically be revoked 60 days after the conviction unless the appraiser makes a written request to the board for a hearing during that 60 day period. Following any such hearing requested pursuant to this subsection, the board in its discretion may impose upon that appraiser any sanction permitted by this chapter.

(j) Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code Section 19-6-28.1 or

19-11-9.3, such action shall be sufficient grounds for refusal of a license or suspension of a license. For purposes of this subsection, the hearing and appeal procedures provided for in such Code sections shall be the only such procedures required under this article.

(k) Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295, such finding shall be sufficient grounds for refusal of a license or suspension of a license. For purposes of this subsection, the hearing and appeal procedures provided for in Code Section 20-3-295 shall be the only such procedures required under this article.

(l) Where the board has previously sanctioned any applicant for a classification under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” such sanction may in itself be a sufficient ground for refusing the classification. (Code 1981, § 43-39A-14, enacted by Ga. L. 1990, p. 1701, § 1; Ga. L. 1991, p. 94, § 43; Ga. L. 1992, p. 1402, § 1; Ga. L. 1994, p. 881, § 4; Ga. L. 1995, p. 1216, § 2; Ga. L. 1996, p. 453, § 14; Ga. L. 1998, p. 1094, § 11; Ga. L. 2000, p. 1527, § 7; Ga. L. 2003, p. 370, § 3; Ga. L. 2007, p. 483, § 4/SB 114; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2011, p. 752, § 43/HB 142; Ga. L. 2012, p. 1099, § 4/SB 365.)

The 2012 amendment, effective July 1, 2012, substituted the present provisions of subparagraph (b)(1)(B) for the former provisions, which read “‘Felony’ includes any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere.”; in paragraph (b)(1.1), substituted a comma for a semicolon following “conviction” and added “and” preceding “provided”; substituted “this state or any other state” for “this or any other state, district, or territory of the United States, or of a foreign country” in paragraphs (b)(1.2) and (b)(2); in subparagraph (b)(1.2)(A), deleted a comma following “provided that”, and inserted “and” preceding “provided, further,”; substituted “sexual offense” for “sex offense” in subparagraph (b)(1.2)(B) and paragraph (b)(2); substi-

tuted “paragraph (1.1)” for “paragraph (1)” in subparagraph (b)(2)(A); in the undersigned language at the end of subsection (g), substituted “shall” for “will” twice, deleted a comma following “event”, and deleted the former last sentence; in subsection (h), substituted “this state or any other state has disciplined” for “this state, any other state, or any foreign country has sanctioned”, substituted “this state or any other state” for “this state, any other state, or foreign country” three additional times, and substituted “such discipline” for “such sanction”; substituted “shall immediately notify” for “must immediately notify” near the beginning of subsection (i); and substituted “shall be sufficient grounds” for “is sufficient grounds” in the first sentences of subsections (j) and (k), respectively.

43-39A-18. Penalties for violations; unfair trade practices; civil judgments.

(a) In accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” whenever an appraiser classification, a school approval, or an instructor approval has been obtained by false or fraudulent representation, or whenever an appraiser, an approved school, or an

approved instructor has been found guilty of a violation of this chapter, of the rules and regulations promulgated by the board, or of any unfair trade practices, including, but not limited to, those listed in this Code section, the board shall have the power to take any one or more of the following actions:

- (1) Refuse to grant or renew a classification to an applicant;
- (2) Administer a reprimand;
- (3) Suspend any classification or approval for a definite period of time or for an indefinite period of time in connection with any condition that may be attached to the restoration of the classification or approval;
- (4) Revoke any classification or approval;
- (5) Revoke any classification issued to an appraiser and simultaneously issue such appraiser a classification with more restricted authority to conduct appraisals;
- (6) Impose on an appraiser, applicant, approved school, or approved instructor monetary assessments in an amount necessary to reimburse the board for administrative, investigative, and legal costs and expenses incurred by the board in conducting any proceeding authorized under this chapter or Chapter 13 of Title 50, the "Georgia Administrative Procedure Act";
- (7) Impose a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations with fines for multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other amount as the parties may agree;
- (8) Require completion of a course of study in real estate appraisal or instruction; or
- (9) Limit or restrict any classification or approval as the board deems necessary for the protection of the public.

Any action taken by the board pursuant to this subsection may, at its discretion, be construed as a "disciplinary sanction" or "sanction" as such terms are used in this chapter.

(b) Appraisers shall not engage in the following unfair trade practices:

- (1) Performing any real estate appraisal activity or specialized services which indicate any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin or an intention to make any such preference, limitation, or discrimination;

(2) An act or omission involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially an appraiser or another person or with the intent to injure substantially another person;

(3) Commission of any act of fraud, misrepresentation, or deceit in the making of an appraisal of real estate for which act a final civil or criminal judgment has been rendered;

(4) Engaging in real estate appraisal activity under an assumed or fictitious name not properly registered in this state;

(5) Paying a finder's fee or a referral fee to a person who is not an appraiser in connection with an appraisal of real estate or real property;

(6) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) Violation of the confidential nature of governmental records to which an appraiser gained access through employment or engagement as an appraiser by a governmental agency;

(8) Violation of any of the standards for the development or communication of real estate appraisals as promulgated by the board;

(9) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(11) Accepting an independent appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, or opinion or where the fee to be paid is contingent upon the opinion, conclusions, analysis, or valuation reached or upon the consequences resulting from the appraisal assignment;

(12) Failure to retain for a period of five years the original or a true copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each such appraisal report. The five-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the delivery of each appraisal report to the client unless, within such five-year period, the appraiser is notified that the appraisal or the appraisal report is involved in litigation, in which event the five-year period for the retention of records shall commence upon the date of the final disposition of such litigation;

(13) Failure upon reasonable request of an appraiser to make all records required to be maintained under the provisions of this chapter available to the board for inspection and copying by the board;

(14) Performing any appraisal beyond the scope of authority granted in the appraiser classification held;

(15) Demonstrating incompetency to act as an appraiser in such a manner as to safeguard the interests of the public or any other conduct, whether of the same or a different character than specified in this subsection, which constitutes dishonest dealing;

(16) Performing or attempting to perform any real estate appraisal activity on property located in another state without first having complied fully with that state's laws regarding real estate appraisal activity;

(17) Providing an oral appraisal report in a federally related transaction;

(18) Utilizing the services of any person in other than a ministerial capacity in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal if such person's appraiser classification is suspended or revoked or if such person does not hold an appraiser classification; or

(19) Performing or attempting to perform any real estate appraisal activity in a federally related transaction without complying with the standards required by the federal financial institutions regulatory agency that regulates the financial transaction for which the appraisal assignment is undertaken.

(c) In a disciplinary proceeding based upon a civil judgment, an appraiser shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

(d) When an appraiser has previously been sanctioned by the board or by any other state's real estate appraiser licensing authority, the board may consider such prior sanction in determining the severity of a new sanction which may be imposed upon a finding that an appraiser has violated any provision of this chapter or any of the rules and regulations of the board. The failure of an appraiser to comply with or to obey a final order of the board may be cause for suspension or revocation of the individual's appraiser classification after opportunity for a hearing. (Code 1981, § 43-39A-18, enacted by Ga. L. 1990, p. 1701, § 1; Ga. L. 1992, p. 1402, § 1; Ga. L. 1994, p. 881, § 5; Ga. L. 1995, p. 1302, § 13; Ga. L. 1996, p. 6, § 43; Ga. L. 1997, p. 405, § 4; Ga. L. 2003, p. 370, § 5; Ga. L. 2012, p. 1099, § 5/SB 365.)

The 2012 amendment, effective July 1, 2012, in subsection (a), in the introductory paragraph, inserted "classification" near the beginning, substituted a comma for a semicolon following "fraudulent representation" and "Code Section", and de-

leted "or" following "violation of this chapter"; substituted "approved school, or approved instructor" for "school approval, or instructor approval" in paragraph (a)(6); and added the ending undesignated paragraph.

43-39A-18.1. Alternative disciplinary procedures; citations.

(a) It is the intent of the General Assembly to provide the board with disciplinary measures to use as alternatives to the sanctions provided for in subsection (a) of Code Section 43-39A-18. The citation and letter of findings provided for in this Code section shall not be construed as a disciplinary sanction.

(b) Whenever the evidence gathered in an investigation reveals an apparent violation by an appraiser of this chapter, the rules and regulations promulgated by the board, or a standard of conduct, the board, in its discretion, may:

(1) Initiate the process for the imposition of sanctions, as provided for in subsection (a) of Code Section 43-39A-18 and in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50;

(2) Issue a citation to the appraiser. Such citation, which shall be served personally or by mail, shall give notice to the appraiser of the alleged violation or violations of this chapter, commission rules, or standard or standards of conduct and inform the appraiser of the opportunity to request a contested case hearing to be held in accordance with the procedures established for such hearings by Chapter 13 of Title 50. A citation issued by the board may include an order to complete a course of study in real estate appraisal or instruction or to pay a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations, with fines for multiple violations limited to \$5,000.00 in any one citation, or both. If the appraiser fails to request a hearing within 30 days of the date of service of the citation, the order contained in the citation shall be final. The failure of an appraiser to comply with a final order contained in a citation may be cause for the imposition of a sanction on such person's classification, after notice and opportunity for a hearing; or

(3) Issue a letter of findings to the appraiser if the alleged violation appears to have done no harm to a third party or to the public. Such letter of findings, which shall be served personally or by mail, shall give notice to the appraiser of the alleged violation or violations of this chapter, commission rules, or standard or standards of conduct. A letter of findings shall be confidential and shall not appear on the

classification history of an appraiser. A letter of findings shall not be subject to a subpoena in a civil action, shall not constitute a public record or be available for inspection by the public, and shall not be disclosed to any person or agency, except as provided in subsection (d) of Code Section 43-39A-22.

(c) The board is authorized to promulgate rules and regulations to implement this Code section. Such rules may limit the provisions of this chapter and of its rules and regulations and standards of conduct which may be the basis for the issuance of a citation or a letter of findings. (Code 1981, § 43-39A-18.1, enacted by Ga. L. 1999, p. 715, § 3; Ga. L. 2012, p. 1099, § 6/SB 365.)

The 2012 amendment, effective July 1, 2012, in subsection (a), in the first sentence, substituted “disciplinary measures to use as alternatives” for “a disciplinary tool which is an alternative”, and, in the second sentence, inserted “and letter of findings” near the beginning, and inserted “disciplinary” near the end; in subsection (b), divided the previous provisions into introductory language and paragraphs (b)(1) and (b)(2), and added a

colon following “discretion, may” at the end of the introductory language; in paragraph (b)(1), substituted “Initiate” for “initiate” at the beginning, and substituted a semicolon for “, or” at the end; in paragraph (b)(2), substituted “Issue” for “issue” at the beginning, and substituted “; or” for a period at the end; added paragraph (b)(3); and added “or a letter of findings” at the end of subsection (c).

CHAPTER 40

REAL ESTATE BROKERS AND SALESPERSONS

Sec.		Sec.	
43-40-2.	Creation of commission; members; meetings; recusal for conflict of interest; removal; compensation; annual report; budget unit.		sion of licenses; other sanctions; surrender or lapse; conviction; noncompliance with child support order; borrowers in default.
43-40-4.	Office of commissioner; qualifications; restrictions; staff; oath; duties and powers; reimbursement.	43-40-22.	Real estate education, research, and recovery fund; revocation of license upon court order for payment from fund; subrogation.
43-40-8.	Qualifications of licensees; course of study for licensed salespersons; lapse; reinstatement; renewal; continuing education; standards for courses.	43-40-25.	Violations by licensees, schools, and instructors; sanctions; unfair trade practices.
43-40-15.	Grant, revocation, or suspension	43-40-25.2.	Alternative disciplinary procedures; citations.

43-40-2. Creation of commission; members; meetings; recusal for conflict of interest; removal; compensation; annual report; budget unit.

(a) There is created the Georgia Real Estate Commission, which shall be composed of six members, each of whom shall be appointed by the Governor and confirmed by the Senate for a term of five years. Any such appointments made when the Senate is not in session shall be effective until acted upon by the Senate. Five of the members shall be licensees who shall have been residents of this state and actively engaged in the real estate business for five years. The sixth member of the commission shall have no connection with the real estate industry whatsoever but shall have a recognized interest in consumer affairs and in consumer protection concerns.

(b) Members of the commission shall serve until their successors are appointed and qualified. Vacancies on the commission shall be filled by appointment of a successor for the unexpired term of office by the Governor. Four members shall constitute a quorum for the transaction of any business of the commission. The commission shall organize by selecting from its members a chairperson and may do all things necessary and convenient to carry this chapter into effect. The commission shall meet at least once a month, or as often as is necessary, and remain in session as long as the chairperson thereof shall deem it necessary to give full consideration to the business before the commission. Members of the commission or others may be designated by the chairperson of the commission, in a spirit of cooperation and coordination, to confer with similar commissions of other states, attend interstate meetings, and generally do such acts and things as may seem advisable to the commission in the advancement of the profession and the standards of the real estate business.

(c) A member of the commission shall recuse himself or herself from voting on matters in which the member has a conflict of interest. Whenever an investigation authorized by this chapter results in the commission's initiating a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," against a member, such member shall be recused from voting on such matter and may not discuss such matter with other commission members or be present when the commission discusses or votes on such matter.

(d) The Governor, after giving notice and an opportunity for a hearing, may remove from office any member of the commission for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence;

(3) Dishonest conduct; or

(4) Having a disciplinary sanction, other than a citation or a letter of findings authorized by this chapter, imposed by any professional licensing agency on such member's right to practice a trade or profession.

(e) The commission is authorized to pass rules and regulations, not inconsistent with this chapter, relating to the professional conduct of licensees and the administration of this chapter.

(f) Each member of the commission shall receive as compensation for each day actually spent on his or her official duties at scheduled meetings and time actually required in traveling to and from its meetings, not to exceed one day's traveling time, the sum of \$25.00 and his or her actual and necessary expenses incurred in the performance of his or her official duties.

(g) The commission, through its chairperson, shall file a written report with the Governor and a copy thereof with both houses of the General Assembly on or before the second Tuesday in January of each year. The Governor may request a preliminary report prior to such an annual report. The report shall include a summary of all actions taken by the commission, a financial report of income and disbursements, staff personnel, and number of persons licensed by the commission. The report shall further delineate steps taken in education and research to disseminate information so that all licensees can be better informed in order to protect the public. The commission shall also outline a program of education and research for each ensuing year, for which a line appropriation shall be requested.

(h) The commission shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act"; provided, however, that the commission shall be assigned for administrative purposes only to the office of the Secretary of State. (Ga. L. 1925, p. 325, §§ 3, 17; Ga. L. 1929, p. 316, § 31; Code 1933, § 84-1404; Ga. L. 1941, p. 342, § 1; Ga. L. 1949, p. 943, § 1; Ga. L. 1968, p. 277, § 1; Ga. L. 1972, p. 1083, § 1; Code 1933, § 84-1405, enacted by Ga. L. 1973, p. 100, § 1; Code 1933, § 84-1426, enacted by Ga. L. 1977, p. 880, § 5; Ga. L. 1978, p. 953, § 1; Ga. L. 1981, p. 1311, § 1; Ga. L. 1985, p. 360, § 2; Ga. L. 2000, p. 1706, § 17; Ga. L. 2006, p. 792, § 4/SB 547; Ga. L. 2012, p. 1099, § 7/SB 365.)

The 2012 amendment, effective July 1, 2012, inserted "or a letter of findings" in paragraph (d)(4).

43-40-4. Office of commissioner; qualifications; restrictions; staff; oath; duties and powers; reimbursement.

(a) There is established within the commission the office of real estate commissioner.

(b) The commissioner shall be a full-time employee of the commission and shall serve as the chief executive officer of the commission. The commission shall in its discretion appoint the commissioner and fix his or her annual salary. Any person, in order to qualify for appointment to the office of commissioner, shall be a person of good moral character and shall possess such qualifications as the commission may require. The commissioner shall hold no interest in any real estate business or related business while serving as commissioner. The commissioner, with the approval of the commission, may employ and fix the compensation of a secretary, investigators, and other staff to assist the commissioner in his or her duties. Such employees shall not be placed in the classified service as defined by Code Section 45-20-2, provided that nothing in this chapter shall be construed to affect any employee in the classified service as of July 1, 1981.

(c) The commissioner shall take an oath to discharge faithfully the duties of his or her office.

(d) The commissioner shall be charged with the duties and powers as delegated by the commission.

(e) The commissioner shall be allowed reimbursement for travel and other expenses necessarily incurred in the performance of his or her duties, the same as other state officers and employees, and shall receive payment of the same in the manner provided for members of the commission. (Code 1933, § 84-1405, enacted by Ga. L. 1973, p. 100, § 1; Ga. L. 1979, p. 1203, § 1; Ga. L. 1981, p. 1311, § 2; Ga. L. 1994, p. 97, § 43; Ga. L. 2009, p. 745, § 1/SB 97; Ga. L. 2012, p. 446, § 2-65/HB 642.)

The 2012 amendment, effective July 1, 2012, inserted “or her” throughout this Code section; and, in subsection (b), substituted “the commissioner” for “him” in the fifth sentence, and in the last sentence, substituted “as defined by Code Section 45-20-2” for “of the State Personnel Administration”, and deleted “of the State Personnel Administration” preceded “as of July 1, 1981”.

Editor’s notes. — Ga. L. 2012, p. 446, § 3-1/HB 642, not codified by the General Assembly, provides that: “Personnel,

equipment, and facilities that were assigned to the State Personnel Administration as of June 30, 2012, shall be transferred to the Department of Administrative Services on the effective date of this Act.” This Act became effective July 1, 2012.

Ga. L. 2012, p. 446, § 3-2/HB 642, not codified by the General Assembly, provides that: “Appropriations for functions which are transferred by this Act may be transferred as provided in Code Section 45-12-90.”

43-40-6. (Effective January 1, 2013. See note.) Seal; records.

Law reviews. — For article, “Evidence,” see 27 Ga. St. U. L. Rev. 1 (2011). Code section, see 28 Ga. St. U. L. Rev. 1 (2011).
For article on the 2011 amendment of this

43-40-8. Qualifications of licensees; course of study for licensed salespersons; lapse; reinstatement; renewal; continuing education; standards for courses.

(a) In order to qualify to become an applicant for a community association manager’s license, an individual shall:

- (1) Have attained the age of 18 years;
- (2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;
- (3) Be a high school graduate or the holder of a certificate of equivalency;
- (3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;
- (4) Furnish evidence of completion of at least 25 instructional hours in a community association manager’s course of study approved by the commission; and
- (5) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers who provide community association management services and community association managers after completing the requirements of paragraph (4) of this subsection.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(b) In order to qualify to become an applicant for a salesperson’s license, an individual shall:

- (1) Have attained the age of 18 years;
- (2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;
- (3) Be a high school graduate or the holder of a certificate of equivalency;
- (3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;
- (4) Furnish evidence of completion of at least 75 instructional hours in a salesperson’s course of study approved by the commission; and

(5) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers and salespersons after completing the requirements of paragraph (4) of this subsection.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(c) In order to qualify to become an applicant for a broker or associate broker's license, an individual shall:

(1) Have attained the age of 21 years;

(2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;

(3) Be a high school graduate or the holder of a certificate of equivalency;

(3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;

(4) Have maintained a license in active status for at least three of the five years immediately preceding the filing of an application to become a broker;

(5) Furnish evidence of completion of 60 instructional hours in a broker's course of study approved by the commission, provided that if licensed as a community association manager, the applicant shall furnish evidence of completion of an additional 75 instructional hours in courses or a course of study approved by the commission; and

(6) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers after completing the requirements of paragraph (5) of this subsection and after maintaining a license in active status for at least three of the five years immediately preceding such examination.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(d) Upon being issued an original salesperson's license, each salesperson shall be required to furnish the commission, within one year of the issuance of a license, evidence of satisfactory completion of a course of study of at least 25 instructional hours approved by the commission. As a condition of satisfactory completion of this course, the licensee shall stand and pass an examination that the commission approves and that covers the subject matter contained in the course. The license of any salesperson who fails to complete satisfactorily in a timely manner the course provided for in this subsection shall lapse, and the salesper-

son's wall certificate of licensure and pocket card shall immediately be surrendered to the commission. Any salesperson whose license lapses for failure to complete satisfactorily an approved 25 instructional hour course may reinstate the license in the following manner:

(1) Any salesperson who has enrolled in any approved 25 instructional hour course within one year of the issuance of an original license, has paid all required fees for the course, and has not completed all in-class sessions, required exercises, or examinations for any reason may reinstate the license by completing the course within six months of the lapsing of the license; or

(2) Any salesperson who fails to reinstate a lapsed license as provided in paragraph (1) of this subsection shall complete 25 instructional hours in a course of study approved by the commission and pay such penalty fees as the commission may require through its rules and regulations before making application to reinstate such license.

(e) Except those individuals actively licensed on January 1, 1980, each applicant for renewal of an active license shall furnish to the commission before renewing a license evidence of satisfactorily completing a continuing education course or courses approved by the commission. The length of the course or courses taken by licensees to meet this requirement of continuing education shall total at least six instructional hours for each year of the renewal period established by the commission. The commission shall not require the passing of an examination to meet this requirement. Continuing education courses shall be provided by all educational or duly authorized instructional organizations teaching real estate licensing courses. No licensee whose license has been placed on inactive status shall be allowed to reactivate unless the provisions of this subsection and subsection (g) of Code Section 43-40-12 are met. Individuals serving on active duty in the armed forces of the United States or in the General Assembly may choose not to meet the continuing education requirements of this subsection while on active duty or during their terms of office. Members of the armed forces or the General Assembly who choose to exercise this temporary exemption option and whose term of active duty or of office exceeds two years shall be required to complete the 25 instructional hour course referenced in subsection (d) of this Code section within six months of the conclusion of their active duty or term of office.

(f) Instructors in all of the approved courses shall be approved by the commission and, where the commission deems necessary, receive any special instruction the commission may require.

(g) Failure to complete any of the educational requirements as provided in this Code section shall be grounds for denial of a license or

denial of renewal of a license without further hearing. No fees or portion of fees paid shall be refunded if a licensee fails to meet the continuing education provisions of subsections (d) and (e) of this Code section or any other provisions of this chapter.

(h) The commission may prepare and distribute to licensees under this chapter educational material deemed of assistance in the conduct of their business. The commission may prepare and distribute to the public educational material deemed of assistance to consumers engaging in business in real estate transactions with persons licensed under this chapter.

(i) The commission, through its rules and regulations, shall establish standards for the approval of schools and instructors to offer the education courses required by this chapter. Each approved school shall comply with Code Sections 43-40-15 through 43-40-31. Each approved school shall designate an individual approved by the commission to act as its director and such designated individual shall be responsible for assuring that the approved school complies with the requirements of this chapter and rules and regulations promulgated under this chapter. An approved school shall authorize its director to bind the school to any settlement of a contested case before the commission as defined in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The commission, through its rules and regulations, shall establish standards for the offering of the prelicense education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction. The commission, through its rules and regulations, may establish standards for the offering of continuing education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction. (Ga. L. 1925, p. 325, § 6; Code 1933, § 84-1409; Ga. L. 1949, p. 943, § 3; Ga. L. 1950, p. 278, § 2; Ga. L. 1965, p. 629, § 5; Ga. L. 1968, p. 277, § 2; Code 1933, § 84-1411, enacted by Ga. L. 1973, p. 100, § 1; Ga. L. 1974, p. 375, § 1; Ga. L. 1979, p. 1203, § 2; Ga. L. 1981, p. 1311, § 4; Ga. L. 1982, p. 1001, §§ 3, 10; Ga. L. 1984, p. 844, §§ 1, 2; Ga. L. 1985, p. 360, § 3; Ga. L. 1986, p. 364, §§ 1, 2; Ga. L. 1987, p. 252, § 1; Ga. L. 1990, p. 650, § 2; Ga. L. 1991, p. 642, § 1; Ga. L. 1996, p. 6, § 43; Ga. L. 1996, p. 194, § 4; Ga. L. 1997, p. 410, § 1; Ga. L. 2006, p. 792, §§ 5, 6/SB 547; Ga. L. 2007, p. 483, § 5/SB 114; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2012, p. 1099, § 8/SB 365.)

The 2012 amendment, effective July 1, 2012, substituted "maintaining a license in active status for at least three of the five years immediately preceding such

examination" for "serving at least two years of active licensure" in paragraph (c)(6).

43-40-15. Grant, revocation, or suspension of licenses; other sanctions; surrender or lapse; conviction; noncompliance with child support order; borrowers in default.

(a) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. The commission may deny a license to a corporation, limited liability company, or partnership if a stockholder, member, or partner or any combination thereof which owns more than a 20 percent interest therein does not bear a good reputation for honesty, trustworthiness, and integrity; has been convicted of any of the crimes enumerated in subsection (b) of this Code section; or has been disciplined by any legally constituted regulatory agency for violating a law regulating the sale of real estate.

(b)(1) As used in this Code section, the term:

(A) "Conviction" means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) "Felony" means any offense committed:

(i) Within this state and deemed a felony under the laws of this state or under the laws of the United States; or

(ii) In another state and deemed a felony under the laws of that state or the laws of the United States.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction, provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this state or any other state shall be eligible to become

an applicant for a licensure or an approval authorized by this chapter only if:

(A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval, provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided, further, that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;

(B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation violation, or a crime involving moral turpitude are pending against the person; and

(C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(2) Where an applicant for any license or approval authorized by this chapter has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other like offense or offenses or has been convicted of a felony, a sexual offense, a probation violation, or a crime involving moral turpitude and has been convicted thereof in a court of competent jurisdiction of this state or any other state such conviction in itself may be sufficient ground for refusal of a license or approval authorized by this chapter. An applicant for licensure as an associate broker or a broker who has been convicted of any offense enumerated in this paragraph may be licensed by the commission as an associate broker or a broker only if:

(A) At least ten years have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(c) Where an applicant or licensee has been found guilty of a violation of the federal fair housing law or Article 4 of Chapter 3 of Title 8 by an administrative law judge or a court of competent jurisdiction and after any appeal of such conviction is concluded, such conviction may in itself be a sufficient ground for refusal of a license or the imposition of any sanction permitted by this chapter.

(d) Where an applicant or licensee has made a false statement of material fact on his or her application or caused to be submitted or been a party to preparing or submitting any falsified application to the commission, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the license.

(e) Grounds for suspension or revocation of a license, as provided for by this chapter, shall also be grounds for refusal to grant a license.

(f) The conduct provided for in subsections (a), (b), (c), (d), and (h) of this Code section which relates to the denial of a real estate license to an applicant shall also be grounds for imposition of any sanction permitted by this chapter when the conduct is that of a licensee.

(g) Whenever the commission initiates an investigation as permitted by Code Section 43-40-27 to determine whether a licensee has violated any provision of this chapter or its rules and regulations and such licensee has:

(1) Surrendered or voluntarily surrenders the license to the commission;

(2) Allowed or allows the license to lapse due to failure to meet educational requirements provided by law; or

(3) Allowed or allows the license to lapse due to failure to pay any required fees,

the commission may issue an order revoking such licensee's license. The order shall be effective ten days after the order is served on the licensee unless the licensee makes a written request for a hearing before the commission, in which event, the commission shall file a notice of hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Service shall be accomplished as provided for in Code Section 43-40-26.

(h) Whenever any occupational licensing body of this state or any other state has disciplined the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state or any other state after that body has initiated an investigation or a disciplinary process regarding such applicant's license, such discipline, lapsing, or surrender in itself may

be a sufficient ground for refusal of a license. Whenever any occupational licensing body of this state or any other state has revoked the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state or any other state after that body has initiated an investigation or a disciplinary process regarding such applicant's license, the commission may issue an associate broker's or a broker's license only if:

(1) At least ten years have passed since the date that the applicant's occupational license was revoked or surrendered;

(2) No criminal charges are pending against the applicant at the time of application; and

(3) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(i) Whenever any licensee is convicted of any offense enumerated in subsection (b) of this Code section, the licensee shall immediately notify the commission of that conviction. The licensee's license shall automatically be revoked 60 days after the licensee's conviction unless the licensee makes a written request to the commission for a hearing during that 60 day period. Following any such hearing requested pursuant to this subsection, the commission in its discretion may impose upon that licensee any sanction permitted by this chapter.

(j) Whenever the commission revokes or suspends the license of a community association manager, a salesperson, an associate broker, or a broker, then any school or instructor approval which such licensee holds shall also be revoked or suspended. Whenever a licensee surrenders a real estate license as provided for in subsection (g) of this Code section, any school or instructor approval which such licensee holds shall also be subject to the provisions of subsection (g) of this Code section.

(k) Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action shall be sufficient grounds for refusal of a license or suspension of a license. In such actions, the hearing and appeal procedures provided for in those Code sections shall be the only such procedures required under this chapter.

(l) Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295, such status shall be sufficient grounds for refusal of a license or suspension of a license. In such cases, the hearing and appeal

procedures provided for in Code Section 20-3-295 shall be the only such procedures required under this chapter.

(m) Where the commission has previously sanctioned any applicant for a license under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” such sanction may in itself be a sufficient ground for refusing the license. (Ga. L. 1925, p. 325, § 1; Ga. L. 1931, p. 231, § 1; Code 1933, § 84-1409; Ga. L. 1943, p. 572, § 1; Ga. L. 1949, p. 943, § 3; Ga. L. 1950, p. 278, § 2; Ga. L. 1965, p. 629, § 5; Ga. L. 1968, p. 277, § 2; Code 1933, § 84-1410, enacted by Ga. L. 1973, p. 100, § 1; Ga. L. 1978, p. 231, § 2; Ga. L. 1981, p. 1311, § 3; Ga. L. 1983, p. 1411, § 2; Ga. L. 1984, p. 844, § 5; Ga. L. 1986, p. 364, §§ 4, 5, 6; Ga. L. 1989, p. 1619, § 5; Ga. L. 1990, p. 8, § 43; Ga. L. 1990, p. 650, § 4; Ga. L. 1991, p. 94, § 43; Ga. L. 1991, p. 642, §§ 4, 5; Ga. L. 1993, p. 123, § 54; Ga. L. 1994, p. 1168, § 2; Ga. L. 1995, p. 1216, § 6; Ga. L. 1996, p. 6, § 43; Ga. L. 1996, p. 194, § 8; Ga. L. 1996, p. 453, § 15; Ga. L. 1998, p. 1094, § 12; Ga. L. 2000, p. 1527, § 16; Ga. L. 2003, p. 370, § 11; Ga. L. 2007, p. 483, § 7/SB 114; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2012, p. 1099, § 9/SB 365.)

The 2012 amendment, effective July 1, 2012, in subsection (a), substituted “disciplined” for “sanctioned” near the end; substituted the present provisions of subparagraph (b)(1)(B) for the former provisions, which read “‘Felony’ includes any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere.”; in paragraph (b)(1.1), substituted a comma for a semicolon following “conviction” and added “and” preceding “provided”; substituted “this state or any other state” for “this or any other state, district, or territory of the United States, or of a foreign country” in paragraphs (b)(1.2) and (b)(2); in subparagraph (b)(1.2)(A), substituted a comma for a semicolon after “licensure or approval”, and inserted “and” preceding

“provided, further.”; substituted “sexual offense” for “sex offense” in subparagraph (b)(1.2)(B) and paragraph (b)(2); rewrote the undesignated language at the end of subsection (g); in subsection (h), substituted “this state or any other state has disciplined” for “this state, any other state, or any foreign country has sanctioned”, substituted “this state or any other state” for “this state, any other state, or foreign country” three additional times, and substituted “such discipline” for “such sanction”; substituted “shall immediately notify” for “must immediately notify” near the beginning of subsection (i); and substituted “shall be sufficient grounds” for “is sufficient grounds” in the first sentences of subsections (k) and (l), respectively.

43-40-22. Real estate education, research, and recovery fund; revocation of license upon court order for payment from fund; subrogation.

(a) The commission is authorized and directed to establish and maintain a real estate education, research, and recovery fund. All funds in the real estate recovery fund established by Ga. L. 1973, p. 100, shall be transferred to and utilized through the real estate education, research, and recovery fund.

(b) The commission shall maintain a minimum balance of \$1 million in the real estate education, research, and recovery fund from which any person, except bonding companies when they are not principals in a real estate transaction, aggrieved by an act, representation, transaction, or conduct of a licensee which is in violation of this chapter or of the rules and regulations of the commission promulgated pursuant thereto, may recover, by order of any court having competent jurisdiction, actual or compensatory damages, not including interests and costs sustained by the act, representation, transaction, or conduct, provided that nothing shall be construed to obligate the fund for more than \$25,000.00 per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction. In addition:

(1) The liability of the fund for the acts of a licensee, when acting as such, is terminated upon the issuance of court orders authorizing payments from the fund for judgments, or any unsatisfied portion of judgments, in an aggregate amount of \$75,000.00 on behalf of such licensee;

(2) A licensee acting as a principal or agent in a real estate transaction has no claim against the fund; and

(3) No person who establishes a proper claim or claims under this Code section shall ever obtain more than \$25,000.00 from the fund.

(c) When any person makes application for an original license to practice as a licensee, that person shall pay, in addition to the original license fee, a fee in an amount established by the commission for deposit in the education, research, and recovery fund.

(d)(1) No action for a judgment which subsequently results in an order for collection from the real estate education, research, and recovery fund shall be started later than two years from the accrual of the cause of action thereon. The commission shall have the right to intervene in and defend any such action.

(2) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee for any act, representation, transaction, or conduct which is in violation of this chapter, or of the regulations promulgated pursuant thereto, which act occurred on or after July 1, 1973, the aggrieved person may, upon termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon 30 days' written notice to the commission, may apply to the court for an order directing payment out of the real estate education, research, and recovery fund of the amount unpaid upon the judgment, subject to the limitations stated in this Code section. The commission shall have the right to

intervene in and object to such verified claim on the issue of whether or not the claim was in violation of this chapter or of the rules and regulations of the commission promulgated pursuant thereto.

(3) The court shall proceed upon such application in a summary manner and, upon the hearing thereof, the aggrieved person shall be required to show that such person:

(A) At the time of the cause of action, was not a spouse of the judgment debtor; or a parent, sibling, or child of the judgment debtor or the judgment debtor's spouse; or the personal representative of such person or persons;

(B) Has complied with all the requirements of this Code section;

(C) Has obtained a judgment, as set out in paragraph (2) of this subsection, stating the amount thereof and the amount owing thereon at the date of the application; and that, in such action, the aggrieved person had joined any and all bonding companies which issued corporate surety bonds to the judgment debtors as principals and all other necessary parties;

(D) Has caused to be issued a writ of execution upon such judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found or that the amount realized on the sale of them or of such of them as were found, under such execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due to the judgment after application thereon of the amount realized;

(E) Has caused the judgment debtor to make discovery under oath concerning the judgment debtor's property, in accordance with Chapter 11 of Title 9, the "Georgia Civil Practice Act";

(F) Has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment;

(G) Has discovered by such search no personal or real property or other assets liable to be sold or applied or that certain of them, being described, owned by the judgment debtor and liable to be so applied have been discovered and that the aggrieved person has taken all necessary action and proceedings for the realization thereof and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized; and

(H) Has applied the following items, if any, as recovered by the aggrieved person, to the actual or compensatory damages awarded by the court:

(i) Any amount recovered from the judgment debtor or debtors;

(ii) Any amount recovered from the bonding company or companies; or

(iii) Any amount recovered in out-of-court settlements as to particular defendants.

(4) Whenever the aggrieved person satisfies the court that it is not practical to comply with one or more of the requirements enumerated in subparagraphs (D), (E), (F), (G), and (H) of paragraph (3) of this subsection and that the aggrieved person has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may, in its discretion, dispense with the necessity for complying with such requirements.

(5) The court shall make an order directed to the commission requiring payment from the real estate education, research, and recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this Code section, if the court is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person by paragraph (3) of this subsection and is satisfied that the aggrieved person has fully pursued and exhausted all remedies available to him or her for recovering the amount awarded by the judgment of the court.

(6) Should the commission pay from the real estate education, research, and recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license of such licensee shall be automatically revoked upon the issuance of a court order authorizing payment from the real estate education, research, and recovery fund. If such license is that of a firm, the license of the qualifying broker of the firm shall automatically be revoked upon the issuance of a court order authorizing payment from the real estate education, research, and recovery fund. No such licensee shall be eligible to receive a new license until such licensee has repaid in full, plus interest at the judgment rate in accordance with Code Section 7-4-12, the amount paid from the real estate education, research, and recovery fund on such licensee's account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(7) If, at any time, the money deposited in the real estate education, research, and recovery fund is insufficient to satisfy any duly

authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claims or portions thereof in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of 4 percent a year.

(e) The sums received by the commission pursuant to any provisions of this Code section shall be deposited into the state treasury and held in a special fund to be known as the "Real Estate Education, Research, and Recovery Fund" and shall be held by the commission in trust for carrying out the purposes of this Code section. These funds may be invested in any investments which are legal for domestic insurance companies under Articles 1 and 3 of Chapter 11 of Title 33, and the interest from these investments shall be deposited to the credit of the real estate education, research, and recovery fund and shall be available for the same purposes as all other money deposited in the real estate education, research, and recovery fund.

(f) It shall be unlawful for any person or his agent to file with the commission any notice, statement, or other document required under this Code section which is false, untrue, or contains any material misstatement of fact and shall constitute a misdemeanor.

(g) When the commission receives notice, as provided in subsection (d) of this Code section, the commission may enter an appearance, file an answer, appear at the court hearing, defend the action, or take whatever other action it may deem appropriate on behalf and in the name of the defendant and take recourse through any appropriate method of review on behalf of and in the name of the defendant.

(h) When, upon the order of the court, the commission has paid from the real estate education, research, and recovery fund any sum to the judgment creditor, the commission shall be subrogated to all of the rights of the judgment creditor. The judgment creditor shall assign all his right, title, and interest in the judgment to the commission before any payment is made from the fund, and any amount and interest so recovered by the commission on the judgment shall be deposited to the fund. If the total amount collected on the judgment by the commission exceeds the amount paid from the fund to the original judgment creditor plus interest and the cost of collection, the commission may elect to pay any overage collected to the original judgment creditor or reassign the remaining interest in the judgment to the original judgment creditor. The payment or reassignment to the original judgment creditor shall not subject the fund to further liability for payment to the original judgment creditor based on that transaction or judgment. Any costs incurred by the commission attempting to collect assigned judgments shall be paid from the fund.

(i) The failure of an aggrieved person to comply with all of the provisions of this Code section shall constitute a waiver of any rights under this Code section.

(j) The commission, in its discretion, may use any and all funds from new licensee payments to the real estate education, research, and recovery fund or from accrued interest earned on the fund for the purpose of helping to underwrite the cost of developing courses, conducting seminars, conducting research projects on matters affecting real estate brokerage, publishing and distributing educational materials, or other education and research programs for the benefit of licensees and the public as the commission may approve in accordance with the provisions of this chapter and its rules and regulations; provided, however, that the commission shall not expend or commit sums for educational or research purposes in such amounts as would cause the real estate education, research, and recovery fund to be reduced to an amount less than \$1 million.

(k) In addition to the license fees provided for in this chapter, the commission, in its discretion and based upon the need to ensure that a minimum balance of \$1 million is maintained in the real estate education, research, and recovery fund, may assess each licensee, only upon renewal of the license, an amount not to exceed \$30.00 per year. (Code 1933, § 84-1424, enacted by Ga. L. 1973, p. 100, § 1; Ga. L. 1979, p. 1203, § 4; Ga. L. 1981, p. 1311, § 7; Ga. L. 1982, p. 1001, §§ 8, 15; Ga. L. 1985, p. 360, §§ 11-13; Ga. L. 1986, p. 10, § 43; Ga. L. 1988, p. 1395, § 1; Ga. L. 1989, p. 1619, § 7; Ga. L. 1993, p. 123, § 57; Ga. L. 1999, p. 592, § 18; Ga. L. 2000, p. 1527, § 20; Ga. L. 2000, p. 1589, § 3; Ga. L. 2012, p. 1099, §§ 10, 11/SB 365.)

The 2012 amendment, effective July 1, 2012, in subsection (b), substituted “\$25,000.00” for “\$15,000.00” near the end of the introductory paragraph and in paragraph (b)(3), and substituted “\$75,000.00” for “\$45,000.00” near the end of paragraph (b)(1); deleted the former second sentence of paragraph (d)(1), which read: “When any aggrieved person commences action for a judgment which may result in collection from the real

estate education, research, and recovery fund, the aggrieved person shall notify the commission in writing, by certified mail or statutory overnight delivery, return receipt requested, to this effect at the time of the commencement of such action.”; in paragraph (d)(2), substituted “30 days” for “ten days” near the middle, and added the last sentence; and inserted “or her” near the end of paragraph (d)(5).

43-40-25. Violations by licensees, schools, and instructors; sanctions; unfair trade practices.

(a) In accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” whenever a license, a school approval, or an instructor approval has been obtained by false or fraudulent representation, or

whenever a licensee, an approved school, or an approved instructor has been found guilty of a violation of this chapter, of the rules and regulations promulgated by the commission, or of any unfair trade practices, including, but not limited to, those listed in this Code section, the commission shall have the power to take any one or more of the following actions:

- (1) Refuse to grant or renew a license to an applicant;
- (2) Administer a reprimand;
- (3) Suspend any license or approval for a definite period of time or for an indefinite period of time in connection with any condition that may be attached to the restoration of the license or approval;
- (4) Revoke any license or approval;
- (5) Revoke the license of a broker, qualifying broker, or associate broker and simultaneously issue such licensee a salesperson's license;
- (6) Impose on a licensee, applicant, approved school, or approved instructor monetary assessments in an amount necessary to reimburse the commission for the administrative, investigative, and legal costs and expenses incurred by the commission in conducting any proceeding authorized under this chapter or Chapter 13 of Title 50, the "Georgia Administrative Procedure Act";
- (7) Impose a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations with fines for multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other amount as the parties may agree;
- (8) Require completion of a course of study in real estate brokerage or instruction;
- (9) Require the filing of periodic reports by an independent accountant on a real estate broker's designated trust account; or
- (10) Limit or restrict any license or approval as the commission deems necessary for the protection of the public.

Any action taken by the commission pursuant to this subsection may, at its discretion, be construed as a "disciplinary sanction" or "sanction" as such terms are used in this chapter.

(b) Licensees shall not engage in any of the following unfair trade practices:

- (1) Because of race, color, religion, sex, disability, familial status, or national origin:

(A) Refusing to sell or rent after the making of a bona fide offer, or refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying, real estate to any person;

(B) Discriminating against any person in the terms, conditions, or privileges of sale or rental of real estate or in the provision of services or facilities in connection therewith;

(C) Making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of real estate, that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination;

(D) Representing to any person that any real estate is not available for inspection, sale, or rental when such real estate is in fact so available; or

(E) Representing explicitly or implicitly that a change has or will or may occur in a block, neighborhood, or area in order to induce or discourage the listing, purchasing, selling, or renting of real estate;

(2) Intentionally advertising material which is misleading or inaccurate or which in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into the licensee's possession which belongs to others;

(4) Commingling the money or other property of the licensee's principals with the licensee's own;

(5) Failing to maintain and deposit in a separate, federally insured checking account all money received by said broker acting in said capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in said funds have agreed otherwise in writing;

(6) Failing to disclose in writing to a principal in a real estate transaction any of the following:

(A) The receipt of a fee, rebate, or other thing of value on expenditures made on behalf of the principal for which the principal is reimbursing the licensee;

(B) The payment to another broker of a commission, fee, or other thing of value for the referral of the principal for brokerage or relocation services; or

(C) The receipt of anything of value for the referral of any service or product in a real estate transaction to a principal;

(7) Representing or attempting to represent a real estate broker, other than the broker holding the licensee's license, without the express knowledge and consent of the broker holding the licensee's license;

(8) Accepting a commission or other valuable consideration by a licensee from anyone other than the broker holding that licensee's license without the consent of that broker;

(9) Acting in the dual capacity of agent and undisclosed principal in any transaction;

(10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;

(11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or the owner's authorized agent and failing to remove such sign within ten days after the expiration of listing;

(12) Offering real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent;

(13) Inducing any party to a contract of sale or lease, or a brokerage agreement to break such contract or brokerage agreement for the purpose of substituting in lieu thereof any other contract or brokerage agreement with another principal;

(14) Negotiating a sale, exchange, or lease of real estate directly with an owner, a lessor, a purchaser, or a tenant if the licensee knows that such owner or lessor has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or that such purchaser or tenant has a written outstanding exclusive brokerage agreement with another broker, unless the outstanding listing or brokerage agreement provides that the licensee holding such agreement will not provide negotiation services to the client;

(15) Indicating that an opinion given to a potential seller, purchaser, landlord, or tenant regarding a listing, lease, rental, or purchase price is an appraisal unless such licensee holds an appraiser classification in accordance with Chapter 39A of this title;

(16) Performing or attempting to perform any of the acts of a licensee on property located in another state without first having been properly licensed in that state or otherwise having complied fully with that state's laws regarding real estate brokerage;

(17) Paying a commission or compensation to any person for performing the services of a real estate licensee who has not first

secured the appropriate license under this chapter or is not cooperating as a nonresident who is licensed in such nonresident's state or foreign country of residence, provided that nothing contained in this subsection or any other provision of this Code section shall be construed so as to prohibit the payment of earned commissions:

(A) To the estate or heirs of a deceased real estate licensee when such deceased real estate licensee had a valid Georgia real estate license in effect at the time the commission was earned and at the time of such person's death;

(B) To a citizen of another country acting as a referral agent if that country does not license real estate brokers and if the Georgia licensee paying such commission or compensation obtains and maintains reasonable written evidence that the payee is a citizen of said other country, is not a resident of this country, and is in the business of brokering real estate in said other country; or

(C) By the brokerage firm holding a licensee's license to an unlicensed firm in which an individual licensee affiliated with the brokerage firm owns more than a 20 percent interest provided:

(i) Such individual licensee earned the commission on behalf of the brokerage firm;

(ii) Such unlicensed firm does not perform real estate brokerage activity;

(iii) The affiliated licensee and the brokerage firm have a written agreement authorizing the payment to the unlicensed firm; and

(iv) The brokerage firm obtains and retains written evidence that the affiliated licensee owns more than a 20 percent interest in the unlicensed firm to which the compensation will be paid;

(18) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of said agreement with the principal;

(19) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

(20) Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller or failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was

disbursed; the broker shall retain true copies of such statements in the broker's files;

(21) Making any substantial misrepresentations;

(22) Acting for more than one party in a transaction without the express written consent of all parties to the transaction;

(23) Failure of an associate broker, salesperson, or community association manager to place, as soon after receipt as is practicably possible, in the custody of the broker holding the licensee's license any deposit money or other money or funds entrusted to the licensee by any person dealing with the licensee as the representative of the licensee's licensed broker;

(24) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under said listing contract exists;

(25) Having demonstrated incompetency to act as a real estate licensee in such manner as to safeguard the interest of the public or any other conduct whether of the same or a different character than heretofore specified which constitutes dishonest dealing;

(26) Obtaining a brokerage agreement, a sales contract, or a lease from any owner, purchaser, or tenant while knowing or having reason to believe that another broker has an exclusive brokerage agreement with such owner, purchaser, or tenant, unless the licensee has written permission from the broker having the first exclusive brokerage agreement; provided, however, that notwithstanding the provisions of this paragraph, a licensee shall be permitted to present a proposal or bid for community association management if requested to do so in writing from a community association board of directors;

(27) Failing to keep for a period of three years a true and correct copy of all sales contracts, closing statements, any offer or other document that resulted in the depositing of trust funds, accounting records related to the maintenance of any trust account required by this chapter, and other documents relating to real estate closings or transactions or failing to produce such documents at the reasonable request of the commission or any of its agents for their inspection;

(28) Being or becoming a party to any falsification of any portion of any contract or other document involved in any real estate transaction;

(29) Failing to obtain the written agreement of the parties indicating to whom the broker shall pay any interest earned on trust funds deposited into an interest-bearing checking account prior to depositing those funds into such account;

(30) Failing to disclose in a timely manner to all parties in a real estate transaction any agency relationship that the licensee may have with any of the parties;

(31) Attempting to perform any act authorized by this chapter to be performed only by a broker, associate broker, or salesperson while licensed as a community association manager;

(32) Attempting to sell, lease, or exchange the property of any member of a community association to which a licensee is providing community association management services without the express written consent of that association to do so;

(33) Failure to deliver to a community association terminating a management contract within 30 days of the termination, or within such other time period as the management contract shall provide:

(A) A complete and accurate record of all transactions and funds handled during the period of the contract and not previously accounted for;

(B) All records and documents received from the community association or received on the association's behalf; and

(C) Any funds held on behalf of the community association;

(34) Failure to deliver to a property owner terminating a management contract within 30 days of the termination, or within such other time period as the management contract shall provide:

(A) A complete and accurate record of all transactions and funds handled during the period of the contract and not previously accounted for;

(B) All records and documents received from the property owner or received on the owner's behalf; and

(C) Any funds held on behalf of the property owner;

(35) Inducing any person to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent; or

(36) Failing to obtain a person's written agreement to refer that person to another licensed broker for brokerage or relocation services and to inform such person being referred whether or not the licensee will receive a valuable consideration for such referral.

(c) When a licensee has previously been sanctioned by the commission or disciplined by any other state's real estate brokerage licensing authority, the commission may consider any such prior sanctions or disciplinary actions by another state's real estate brokerage licensing

authority in determining the severity of a new sanction which may be imposed upon a finding that the licensee has committed an unfair trade practice, that the licensee has violated any provision of this chapter, or that the licensee has violated any of the rules and regulations of the commission. The failure of a licensee to comply with or to obey a final order of the commission may be cause for suspension or revocation of the individual's license after opportunity for a hearing.

(d) Whenever a licensee acts in a real estate transaction as a principal or as an officer, employee, or member of a firm or any other entity acting as a principal, the commission may impose any sanction permitted by this chapter if the licensee commits any unfair trade practice enumerated in this Code section or violates any other provision of this chapter or any rules and regulations adopted pursuant to this chapter in such a transaction.

(e) Whenever a community association manager, a salesperson, or an associate broker violates any provision of this chapter or any rules and regulations adopted pursuant to this chapter by performing any duty or act of a broker enumerated in this chapter or any rules and regulations adopted pursuant to this chapter either with the proper delegation of that duty or act by the broker or without the broker's authorization, the commission may impose any sanction permitted under this chapter on the license of such community association manager, salesperson, or associate broker. (Ga. L. 1925, p. 325, §§ 11, 12; Ga. L. 1929, p. 316, § 32; Code 1933, §§ 84-1417, 84-1418; Ga. L. 1949, p. 943, § 4; Ga. L. 1965, p. 629, § 9; Code 1933, § 84-1421, enacted by Ga. L. 1973, p. 100, § 1; Ga. L. 1974, p. 379, § 4; Ga. L. 1977, p. 691, § 1; Ga. L. 1978, p. 231, §§ 5-7; Ga. L. 1980, p. 1398, § 8; Ga. L. 1983, p. 1411, § 5; Ga. L. 1984, p. 844, § 9; Ga. L. 1985, p. 360, §§ 15, 16; Ga. L. 1986, p. 10, § 43; Ga. L. 1986, p. 364, §§ 9, 10, 11, 12; Ga. L. 1987, p. 3, § 43; Ga. L. 1987, p. 252, §§ 7, 8; Ga. L. 1989, p. 1619, § 8; Ga. L. 1990, p. 650, §§ 5-8; Ga. L. 1991, p. 642, § 7; Ga. L. 1992, p. 1402, § 2; Ga. L. 1992, p. 1541, §§ 2, 3; Ga. L. 1993, p. 123, § 58; Ga. L. 1993, p. 376, § 2; Ga. L. 1995, p. 1302, § 13; Ga. L. 1996, p. 194, § 12; Ga. L. 1998, p. 196, § 7; Ga. L. 2000, p. 1527, § 21; Ga. L. 2003, p. 370, § 14; Ga. L. 2004, p. 398, § 1; Ga. L. 2006, p. 792, § 8/SB 547; Ga. L. 2007, p. 483, § 9/SB 114; Ga. L. 2009, p. 319, § 1/HB 315; Ga. L. 2011, p. 415, § 2/HB 53; Ga. L. 2011, p. 613, § 3/HB 423; Ga. L. 2012, p. 1099, §§ 12, 13/SB 365.)

The 2012 amendment, effective July 1, 2012, in the introductory paragraph of subsection (a), substituted a comma for a semicolon following "representation", deleted "or" following "violation of this chapter", inserted a comma following "limited to", and substituted a comma for a semicolon following "Code section"; substituted "approved school, or approved instructor"

for "school approval, or instructor approval" in paragraph (a)(6); added the undesignated paragraph following paragraph (a)(10); and, in subsection (c), in the first sentence, inserted "disciplined" near the beginning, and inserted "disciplinary actions by another state's real estate brokerage licensing authority" near the middle.

43-40-25.2. Alternative disciplinary procedures; citations.

(a) It is the intent of the General Assembly to provide the commission with measures to use as alternatives to the sanctions provided for in subsection (a) of Code Section 43-40-25. The citation and letter of findings provided for in this Code section shall not be construed as a disciplinary sanction.

(b) Whenever the evidence gathered in an investigation reveals an apparent violation of this chapter or of the rules and regulations promulgated by the commission or the apparent commission of any unfair trade practice by a licensee, the commission, in its discretion, may:

(1) Initiate the process for the imposition of sanctions, as provided for in subsection (a) of Code Section 43-40-25 and in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50;

(2) Issue a citation to the licensee. Such citation, which shall be served personally or by mail, shall give notice to the licensee of the alleged violation or violations of this chapter or commission rules or alleged unfair trade practice or practices and inform the licensee of the opportunity to request a contested case hearing to be held in accordance with the procedures established for such hearings by Chapter 13 of Title 50. A citation issued by the commission may include an order to complete a course of study in real estate brokerage or instruction; to file periodic reports by an independent accountant on a real estate broker's designated trust account; or to pay a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations, with fines for multiple violations limited to \$5,000.00 in any one citation, or a combination of the above. If the licensee fails to request a hearing within 30 days of the date of service of the citation, the order contained in the citation shall be final. The failure of a licensee to comply with a final order contained in a citation may be cause for the imposition of a sanction on such person's license, after notice and opportunity for a hearing; or

(3) Issue a letter of findings to the licensee if the alleged violation appears to have done no harm to a third party or to the public. Such letter of findings, which shall be served personally or by mail, shall give notice to the licensee of the alleged violation or violations of this chapter or commission rules or alleged unfair trade practice or practices. A letter of findings shall be confidential and shall not appear on the license history of a licensee. A letter of findings shall not be subject to a subpoena in a civil action, shall not constitute a public record or be available for inspection by the public, and shall not be disclosed to any person or agency, except as provided in subsection (d) of Code Section 43-40-27.

(c) The commission is authorized to promulgate rules and regulations to implement this Code section. Such rules may limit the provisions of this chapter and of its rules and regulations and unfair trade practices which may be the basis for the issuance of a citation or a letter of findings. (Code 1981, § 43-40-25.2, enacted by Ga. L. 1999, p. 715, § 6; Ga. L. 2012, p. 1099, § 14/SB 365.)

The 2012 amendment, effective July 1, 2012, in subsection (a), in the first sentence, substituted “measures to use as alternatives” for “disciplinary tool which is an alternative”, in the second sentence, inserted “and letter of findings” near the beginning, and inserted “disciplinary” near the end; in subsection (b), divided the previous provisions into introductory language and paragraphs (b)(1) and (b)(2), and added a colon following “discretion,

may” at the end of the introductory language; in paragraph (b)(1), substituted “Initiate” for “initiate” at the beginning, and substituted a semicolon for “; or” at the end; in paragraph (b)(2), substituted “Issue” for “issue” at the beginning, and substituted “; or” for a period at the end; added paragraph (b)(3); and added “or a letter of findings” at the end of subsection (c).

CHAPTER 45

PERSONS ENGAGED IN STRUCTURAL PEST CONTROL

43-45-3. Creation of commission; composition; vacancies; number of members who may represent a single business entity.

Law reviews. — For article on the 2011 amendment of this Code section, see 28 Ga. St. U. L. Rev. 147 (2011).

CHAPTER 50

VETERINARIANS AND VETERINARY TECHNICIANS

Article 3

Licensing and Registration

PART 1

VETERINARIANS

Sec.

43-50-32. Frequency of examinations; notification to applicants of results; admission for reexamination.

Sec.

43-50-31. Application for license; qualifications; recordation of license and issuance of certificate of registration.

PART 2

LICENSING AND REGISTRATION GENERALLY

43-50-44. Exemptions from article.

PART 3

VETERINARY TECHNICIANS

tions; reexamination; reactivation.

Sec.

43-50-53. Administration of examina-

ARTICLE 2

STATE BOARD OF VETERINARY MEDICINE

43-50-20. (For effective date, see note.) Creation of board; members; qualifications; vacancies; expenses; meetings; officers.

Delayed effective date. — Ga. L. 2003, p. 615, § 3-1, provides that the 2003 amendment by § 2-1 of that Act becomes effective only upon the effective date of an appropriation of funds for the specific purposes of Part II of that Act as expressed in a line item making specific reference to full funding of the Act in an Appropria-

tions Act enacted by the General Assembly. Funds were not appropriated at the 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, or 2012 session of the General Assembly. This Code section, as set out in the bound volume, does not reflect the amendment by § 2-1 of that Act, owing to the delayed effective date.

ARTICLE 3

LICENSING AND REGISTRATION

PART 1

VETERINARIANS

43-50-31. Application for license; qualifications; recordation of license and issuance of certificate of registration.

(a) Any person desiring a license to practice veterinary medicine in this state shall make application to the board. The application shall include evidence, satisfactory to the board, that:

(1) The applicant has attained the age of 18;

(2) The applicant is of good moral character;

(3) The applicant is a graduate of an accredited college or school of veterinary medicine or possesses an ECFVG certificate or its substantial equivalent;

(4) The applicant has passed a board approved examination; provided, however, that the board may provide by rule or regulation for a waiver of any part of such examination for veterinarians who are licensed as such by another state and who are in good standing therewith; and

(5) The applicant meets such other qualifications or provides such other information as the board may require by rule.

(b) The application shall be accompanied by a fee in the amount established by the board.

(c) The division director shall record the new licenses and issue a certificate of registration to the new licensees. (Ga. L. 1908, p. 88, §§ 3, 4; Civil Code 1910, §§ 2059, 2060; Code 1933, §§ 84-1504, 84-1505; Ga. L. 1950, p. 254, § 1; Ga. L. 1962, p. 543, §§ 2, 3; Code 1933, § 84-1506, enacted by Ga. L. 1965, p. 92, § 1; Code 1981, § 43-50-23; Ga. L. 1982, p. 1065, § 4; Ga. L. 1988, p. 1589, § 2; Code 1981, § 43-50-31 as redesignated by Ga. L. 2003, p. 615, § 1-1; Ga. L. 2010, p. 266, § 45/SB 195; Ga. L. 2012, p. 678, § 1/HB 409.)

The 2012 amendment, effective July 1, 2012, in subsection (a), deleted the proviso at the end of paragraph (a)(3), which read: "provided, however, that a senior veterinary student may, in the discretion of the board, be allowed to sit for the examination during his or her senior year if he or she meets the other qualifications but shall not be issued a license unless and until he or she graduates and,"; added paragraph (a)(4); redesignated former paragraph (a)(4) as present

paragraph (a)(5); and substituted the present provisions of subsection (c) for the former provisions, which read: "If the board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination; provided, however, that the board may provide by rule for waiver of any part of such examination for veterinarians who are licensed as such by another state and who are in good standing therewith."

43-50-32. Frequency of examinations; notification to applicants of results; admission for reexamination.

(a) The board shall hold at least one license examination during each year and may hold such additional license examinations as are necessary.

(b) After each examination, the division director shall notify each examinee of the result of his or her examination. If an applicant fails a license examination, the applicant may take a subsequent examination upon payment of the registration and examination fees. No person may take the examination more than three times without review and approval by the board. Approval may be provided under such circumstances as the board deems appropriate. (Ga. L. 1908, p. 88, §§ 3, 4; Civil Code 1910, §§ 2059, 2060; Code 1933, §§ 84-1504, 84-1506; Ga. L. 1950, p. 254, § 1; Ga. L. 1962, p. 543, §§ 2, 4; Code 1933, § 84-1507, enacted by Ga. L. 1965, p. 92, § 1; Code 1981, § 43-50-24; Ga. L. 2000, p. 1706, § 19; Code 1981, § 43-50-32, as redesignated by Ga. L. 2003, p. 615, § 1-1; Ga. L. 2012, p. 678, § 2/HB 409.)

The 2012 amendment, effective July 1, 2012, in subsection (b), at the end of the first sentence, deleted " , and the board shall issue licenses to the persons success-

fully completing the examination”, and deleted the former second sentence, which read: “The division director shall record

the new licenses and issue a certificate of registration to the new licensees.”

PART 2

LICENSING AND REGISTRATION GENERALLY

43-50-40. (For effective date, see note.) Renewal of licenses and registrations; reinstatement; waiver of fee; continuing education; inactive status.

Delayed effective date. — Ga. L. 2003, p. 615, § 3-1, provides that the 2003 amendment by § 2-2 of that Act becomes effective only upon the effective date of an appropriation of funds for purposes of Part II of that Act as expressed in a line item making specific reference to full funding of that Act in an Appropriations

Act enacted by the General Assembly. This Code section, as set out in the bound volume, does not reflect the amendment by § 2-2 of that Act, owing to the delayed effective date. Funds were not appropriated at the 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, or 2012 session of the General Assembly.

43-50-44. Exemptions from article.

This article shall not be construed to prohibit:

(1)(A) An employee of the federal, state, or local government or any contractual partner thereof from performing his or her duties relating to animals owned by or on loan to such employer or the control of stray animals; or

(B) Any employee of a public or private college or university from performing his or her duties relating to animals owned by or on loan to such employer;

(2) A person who is a regular student in a veterinary school or school of veterinary technology performing duties or actions assigned by his or her instructors or working under the supervision of a licensed veterinarian;

(3) A person, compensated or otherwise, from performing acceptable livestock management practices, which practices shall include, but not be limited to, castration of food animals, dehorning without the use of prescription drugs or surgical closure of wounds, hoof trimming or shoeing, docking, ear notching, removing needle teeth, testing for pregnancy, implantation of over-the-counter growth implants, implantation of over-the-counter identification devices, artificial insemination, the use of federally approved over-the-counter products, branding, collecting of fluids for genetic identification and classification, semen collection and storage, and the use of ultrasound for collection of production data and similar nondiagnostic purposes;

(4) A person assisting with a nonsurgical fetal delivery in a food animal, provided that no fee is charged;

(5) The actions of a veterinarian currently licensed in another state, province of Canada, or a United States territory in consulting with a licensee of this state but who:

(A) Does not open an office or appoint a place to do business within this state;

(B) Does not print or use letterhead or business cards reflecting in-state addresses;

(C) Does not establish answering services or advertise the existence of a practice address within this state;

(D) Does not practice veterinary medicine as a consultant rendering services directly to the public without the direction of a licensed veterinarian of this state more than two days per calendar year; and

(E) Is providing services for an organization conducting a public event lasting less than ten days that utilizes animals in need of veterinary examinations, treatments, or oversight to promote the safety and health of the public, the event, and the animal participants; provided, however, that a veterinarian licensed in another state who practices veterinary medicine on animals belonging to residents of this state by communicating directly with such owners and independent of the attending veterinary licensee is not exempt from this state's licensing requirements;

(6) Any merchant or manufacturer selling, at his or her regular place of business, medicines, feed, appliances, or other products used in the prevention or treatment of animal diseases. This shall not be construed to authorize the sale of medicines which must be obtained by a prescription from a pharmacist but shall only include the right to sell those medicines which are classified as proprietary and which are commonly known as over-the-counter medicines;

(7)(A) The owner of an animal or the owner's full-time regular employee caring for and treating the animal belonging to such owner; or

(B) The owner's friend or relative caring for or treating the animal belonging to such owner, provided that no fee is charged and the friend or relative does not solicit, advertise, or regularly engage in providing such care or treatment or administer or dispense prescription drugs without a valid prescription;

(8) The owner, operator, or employee of a licensed kennel, animal shelter, or stable or of a pet-sitting service providing food, shelter, or

supervision of an animal or administering prescription drugs pursuant to prescription of a licensed veterinarian or over-the-counter medicine to an animal;

(9) A member of the faculty, a resident, an intern, or a graduate student of an accredited college or school of veterinary medicine or school of veterinary technology performing his or her regular nonclinical functions or a person lecturing or giving instructions or demonstrations at an accredited college or school of veterinary medicine or school of veterinary technology in connection with a continuing education course or seminar;

(10) Any person selling or applying any pesticide, insecticide, or herbicide;

(11) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(12) Any person performing artificial insemination;

(13) An employee of a licensed veterinarian administering prescribed care to an animal under the appropriate supervision of the veterinarian;

(14) A graduate of a foreign college or school of veterinary medicine who is in the process of obtaining the ECFVG certificate or its substantial equivalent performing duties or actions under the direct supervision of a licensed veterinarian;

(15) The owner of an animal, the owner's employee, or a member of a nationally recognized organization that acknowledges individuals performing embryo transfer or artificial breeding and which organization is approved by the board from:

(A) The nonsurgical removal of an embryo from an animal for the purpose of transplanting such embryo into another female animal, cryopreserving such embryo, or implanting such embryo in an animal, provided that the use of prescription medications in such animals is maintained under the direction of a licensed veterinarian with a valid veterinarian-client-patient relationship; or

(B) The testing and evaluation of semen;

(16) Any other licensed or registered health care provider utilizing his or her special skills so long as the treatment of the animal is under the direction of a licensed veterinarian with a valid veterinary-client-patient relationship;

(17) A person performing soft tissue animal massage or other forms of soft tissue animal manipulation;

(18) A person performing aquaculture or raniculture management practices;

(19) A person implanting electronic identification devices in small companion animals;

(20) An employee or contractual partner of a zoological park or aquarium accredited by the American Zoo and Aquarium Association or other substantially equivalent nationally recognized accrediting agency as determined by the board from performing his or her duties that are approved by a licensed veterinarian and relate to animals owned by or on loan to such zoological park or aquarium; or

(21) Any person lawfully engaged in the art or profession of farriery. (Code 1933, § 84-1503, enacted by Ga. L. 1965, p. 92, § 1; Ga. L. 1973, p. 260, § 1; Code 1981, § 43-50-32; Ga. L. 1993, p. 700, § 1; Code 1981, § 43-50-44, as redesignated by Ga. L. 2003, p. 615, § 1-1; Ga. L. 2006, p. 30, § 2/HB 999; Ga. L. 2012, p. 616, § 1/SB 324.)

The 2012 amendment, effective July 1, 2012, deleted “or” at the end of paragraph (19); substituted “; or” for a period at the end of paragraph (20); and added paragraph (21).

PART 3

VETERINARY TECHNICIANS

43-50-53. Administration of examinations; reexamination; reactivation.

(a) The board shall approve an examination to measure the competence of the applicant to engage in the practice as a veterinary technician and shall set by rule or regulation the score needed to pass any such examination.

(b) If an applicant fails an examination, the applicant may take a subsequent examination upon payment of the registration and examination fees. No person may take the examination more than three times without review and approval by the board under such circumstances as the board deems appropriate.

(c) Any veterinary technician in this state whose certificate of registration has been on inactive status for at least five consecutive years and who desires to reactivate such registration shall be required to take continuing education, pay all fees, and meet all other requirements and board rules or regulations for registration as a veterinary technician. (Code 1981, § 43-50-53, enacted by Ga. L. 1983, p. 705, § 1; Ga. L. 2000, p. 1706, § 19; Ga. L. 2003, p. 615, § 1-1; Ga. L. 2006, p. 30, § 3/HB 999; Ga. L. 2012, p. 678, § 3/HB 409.)

The 2012 amendment, effective July 1, 2012, rewrote subsection (a); deleted former subsections (b) and (c); redesignated former subsections (d) and (e) as present subsections (b) and (c), respectively; and deleted the former last sen-

tence of subsection (c), which read: "It shall be the duty of the board to approve study materials that may be used to assist such persons in preparing for any examination."

ARTICLE 5
FACILITIES AND EQUIPMENT

Delayed effective date. — Ga. L. 2003, p. 615, § 3-1, provides that this article becomes effective only upon the effective date of an appropriation of funds for purposes of this article as expressed in a line item making specific reference to

full funding of Ga. L. 2003, p. 615, in an Appropriations Act enacted by the General Assembly. Funds were not appropriated at the 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, or 2012 session of the General Assembly.

